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No. 88-1685

In the Supreme Court of the United States

OCTOBER TERM, 1989

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

CURTIN MATHESON SCIENTIFIC, INC.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

JOINT APPENDIX

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PETITION FOR WRIT OF CERTIORARI FILED APRIL 17, 1989
CERTIORARI GRANTED JUNE 26, 1989

EDITOR'S NOTE:

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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

Board Case No. 23-CA-7620

IN THE MATTER OF: CURTIN MATHESON SCIENTIFIC, INC.

Date	*Documents*
07.30.79	Charge
09.07.79	Complaint
09.18.79	Answer to Complaint
11.27.79	General Counsel's Motion to Transfer Case and to Continue Proceeding Before the Board and for Summary Judgment
12.04.79	Board's Order Transferring Proceeding to the Board and Notice to Show Cause
12.18.79	Respondent's Opposition to General Counsel's Motion for Summary Judgment and Cross-Motion for Summary Judgment
03.12.80	Board's Order Denying Motions
03.19.80	Notice of Hearing
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11.20.80	Administrative Law Judge's Decision
12.24.80	General Counsel's Exceptions
01.09.81	Respondent's Opposition to General Counsel's Exceptions
12.17.87	Decision and Order
01.11.88	Petition for Review
01.29.88	Cross-Application for Enforcement

Date	*Documents*
02.01.88	General Drivers Local 968's Motion to Intervene Granted
11.04.88	Decision of the Court of Appeals
11.04.88	Judgment of the Court of Appeals
12.22.88	Board's Suggestion for Rehearing En Banc Denied
04.17.89	Petition for writ of certiorari filed
06.26.89	Petition for writ of certiorari granted

BEFORE THE
NATIONAL LABOR RELATIONS BOARD
TWENTY-THIRD REGION

Case No. 23-CA-7620

IN THE MATTER OF:
CURTIN MATHESON SCIENTIFIC, INCORPORATED,
RESPONDENT,

and

GENERAL DRIVERS, WAREHOUSEMEN & HELPERS,
LOCAL 968, AFFILIATED WITH INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN & HELPERS OF AMERICA,
CHARGING PARTY.

Courtroom No. 1
One Allen Center
Suite 910
500 Dallas Avenue
Houston, Texas

Tuesday, June 10, 1980

The above-entitled matter came on for hearing, pursuant to notice, at 10:00 a.m.

Before: HON. MARTIN S. BENNETT,
Administrative Law Judge

[2] APPEARANCES:

On behalf of the General Counsel, National Labor Relations Board:

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On behalf of the Respondent:

CLINTON S. MORSE, ESQ.
and
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Andrews, Kurth, Campbell & Jones
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On behalf of the Charging Party:

HOWARD REED, Business Representative
General Drivers, Warehousemen & Helpers,
Local 968, Affiliated with International
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3100 Katy Freeway
Houston, Texas 77002

Also present to assist the General Counsel:

ERNEST DURAN

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* * * *

[8] ELIZABETH PRICE

having been first duly sworn, was called as a witness herein and was examined and testified as follows:

JUDGE BENNETT: State your name and address for the record.

THE WITNESS: Elizabeth Price, 11582 South Kirkwood, Stafford, Texas.

[9] **DIRECT EXAMINATION**

BY MR. MIDDLETON:

Q. Ms. Price, where are you employed?

A. I am with Curtin Matheson Scientific.

Q. What position do you hold there?

A. Director of Employee Relations.

Q. And how long have you held that position?

A. Almost four years.

Q. Therefore, you were holding that same position as of May of 1979?

A. Yes.

Q. Are you the same Ms. Price that furnished an affidavit dated December 14, made an affidavit—correction—dated December 14, 1979 that was attached to the Respondent's Motion for Summary Judgment?

A. Yes, I am.

Q. You are familiar with the underlying dispute, then, from its inception, are you not?

A. Yes.

JUDGE BENNETT: Somewhere in the pleadings, if I recall, the date of 1970 appears, and I think the parties are in agreement it is 1979?

MR. MIDDLETON: There was one place, in fact an inadvertent typographical error, in the General Counsel's Motion for Summary Judgment at one point where the date of [10] certification was referred to as April 15, 1979, but it should have been April 15, 1970.

JUDGE BENNETT: All right.

MR. MIDDLETON: And a copy of that certification is attached to the General Counsel's Motion for Summary Judgment.

I will give it to you exact.

JUDGE BENNETT: Is that agreeable?

MR. MORSE: That is correct, Your Honor, as far as we are concerned.

JUDGE BENNETT: All right.

MR. MIDDLETON: It's attached, a copy of the certification is attached, to the General Counsel's Motion for Summary Judgment as Appendix F, Your Honor.

JUDGE BENNETT: All right.

BY MR. MIDDLETON.

Q. Ms. Price, when did you first conclude that the Union no longer represented a majority of the unit employees?

A. It was after we had had a few conversations with the striking employees.

Q. Could you give us a date?

A. I guess the first one would be June 27th.

Q. Now, is this the date that you actually concluded that they no longer represented a majority of the employees?

A. That would really not be the date we concluded that.

[11] It would be the date of the first conversation we had with the employees, and it would be probably two or three days later that we were fairly sure.

Q. When you say "we," who are you referring to?

A. I guess myself.

JUDGE BENNETT: How many employees did you have, roughly?

THE WITNESS: We had 27 that went out on strike.

JUDGE BENNETT: How many did you have in all?

THE WITNESS: Twenty-seven.

JUDGE BENNETT: So, and correct me if I am in error, all of your employees went out on strike?

THE WITNESS: Yes, sir, although five of them crossed the picket line.

BY MR. MIDDLETON:

Q. The unit that was certified by the National Labor Relations Board through the certification of representation issued on April 15, 1970, is the same unit that was included in your last collective bargaining agreement that was executed; is that true?

A. I don't think I have ever seen the 1970 document, so . . .

MR. MIDDLETON: Counsel, would you be willing to stipulate that the unit certified by the Board is the same unit that was represented by the Union under the collective bargaining agreement that last expired?

[12] MR. MORSE: I think we will.

JUDGE BENNETT: So stipulated.

BY MR. MIDDLETON:

Q. Now, you mentioned that you had had some conversations with some of the employees regarding the Union; is that correct?

A. Yes.

Q. And it was as a result of those conversations that you concluded that the Union no longer represented a majority of the unit employees?

A. Correct.

Q. In your affidavit of December 14, 1979, you set forth fully and accurately the basis for that conclusion, do you not?

A. Yes.

Q. And of the employees that you spoke to or mentioned in that affidavit?

A. Each of the employees that we had conversations with?

Q. Yes, that led to your conclusion?

A. I think –

Q. That the Union no longer represented a majority of the employees?

A. I think there are two people that are not mentioned by name in that affidavit.

Q. Could you tell us who they are?

[13] A. Their names are Tony Lopez and Bill Lee.

Q. What was the last name?

A. Bill Lee, L-e-e.

JUDGE BENNETT: Which exhibit is that affidavit?

MR. MIDDLETON: It's attached to the Respondent's Motion for Summary Judgment. Well, it's really – It's entitled, "Affidavit in Opposition to General Counsel's Motion for Summary Judgement and in Support of the Company's Motion for Summary Judgement."

It would be 1(h), Your Honor.

JUDGE BENNETT: It's attached to 1(h)?

MR. MIDDLETON: Correct.

BY MR. MIDDLETON:

Q. Now, from what I can surmise from the affidavit there were, apparently, five employees that you spoke to, namely, who would be Shady Goodson, J. R. Blackshire, Clint Waller, Tony Lopez and Bill Lee.

A. There was also a conversation with a Raymond Brunner.

Q. Would you spell Mr. Brunner's last name?

A. B-r-u-n-n-e-r.

JUDGE BENNETT: Who is he?

THE WITNESS: He was one of the striking employees.

BY MR. MIDDLETON:

Q. Is he referred to in your affidavit of December 14?

A. I, frankly, can't remember.

[14] JUDGE BENNETT: Would you like to see your affidavit?

THE WITNESS: Yes.

JUDGE BENNETT: I am showing her what, I think, is her affidavit.

THE WITNESS: He is not referred to by name, but under (e) . . .

BY MR. MIDDLETON:

Q. How many persons . . .

MR. MIDDLETON: Well, withdraw that.

BY MR. MIDDLETON:

Q. Who are the persons, by name, that you are referring to under Part (e) of that affidavit?

A. Tony Lopez, Bill Lee and Raymond Brunner.

Q. Are you still looking at your affidavit?

A. Yes.

Q. Will you take another look at it, please?

In Part (i) you state that one striker had retired.

Can you tell us who that striker is?

A. That's Raymond Brunner. I am sorry. I didn't realize we had that.

Q. And in Part (h) you state that five of the 26 old employees were crossing the picket lines to come to work.

Would you give us the name of those employees?

A. Yes. Gilbert Ozuni

Q. Would you spell them for us?

[15] A. Yes. O-z-u-n-i-g-a. Sandra Hutto, H-u-t-t-o. Alvin Harper, H-a-r-p-e-r.

Q. What was the first name?

A. Alvin. Bill Lee and Tony Lopez.

JUDGE BENNETT: You have named five people?

THE WITNESS: Yes, sir.

BY MR. MIDDLETON:

Q. You also stated in your affidavit at Part (f) that Clint Waller resigned from the Union and told you that he did not ever want to have anything to do with the Union again?

A. Yes.

Q. When did Clint Waller make that statement to you?

A. The first time we talked with Clint was sometime around the beginning of July, and at that point he expressed his dissatisfaction. Later on, he did write the Union and sent us a copy of that letter.

Q. Can you tell us where that conversation took place and who was present?

A. Okay. It was in our Operations Manager's office with Jim Crocker, who is the Operations Manager and myself.

Q. How did Mr. Waller come to be in the Operations Manager's office at that time?

A. He had called on a number of occasions and asked if he couldn't talk with us.

[16] Q. And it was as a result of some earlier calls that he was in the office at that time?

A. Yes.

Q. Who were those calls made to, to your knowledge?

A. Jim Crocker.

Q. And do you know what the dates of those calls were?

A. No. I don't have a record of it. I do know it was sometime in the early part of July.

Q. When the first such call was made?

A. Yes.

Q. When did you first become aware of those calls?

A. Jim let me know, I would say, within a day or two of the calls.

Q. Do you remember when that was?

A. Along the same time.

Q. The first week of July, 1979?

A. Right.

Q. Was the strike in progress at that time?

A. Yes, it was.

Q. And was Mr. Waller working at that point? He is not one of those that crossed the picket line?

A. No, he isn't.

Q. Would you tell us what was said during that conversation, using the words that each of the persons who spoke used, so far as you presently recall?

[17] A. Okay. Clint did most of the talking.

JUDGE BENNETT: Clint who?

THE WITNESS: Clint Waller did most of the talking.

BY MR. MIDDLETON:

Q. Pardon me for interrupting you.

Before we go into that, first of all, would you please tell me how you came to be – Was there an appointment set up specifically with Clint Waller to talk to him at that time?

A. Not a specific date. We told him if he wanted to talk with us he could come in and talk with us.

Q. When you say "we," who are you referring to?

A. Jim Crocker and I.

Q. Did you also speak with him and tell him that he could come in to speak with you?

A. No. Jim was the only one talking to him on the phone.

JUDGE BENNETT: Jim who?

THE WITNESS: Jim Crocker.

JUDGE BENNETT: Jim telephoned him?

THE WITNESS: No. No. He called us.

BY MR. MIDDLETON:

Q. Can you tell us how many times he called you between the dates of the first call and the dates of the meeting?

A. I can't offhand, no.

JUDGE BENNETT: Do you have any rough idea?

A. I would say two.

[18] BY MR. MIDDLETON:

Q. And how did you know that he would be in Clint's office – pardon me – in Mr. Crocker's office at the time you were present there?

A. Well, he asked for Jim Crocker at the reception desk, and Jim on his way up to the reception desk talked with me and we both went back to Jim Crocker's office and had a conversation.

JUDGE BENNETT: So, then, there was three of you present?

THE WITNESS: Yes, sir.

BY MR. MIDDLETON:

Q. Do you remember what time of the day this conversation or business took place?

A. No, I don't.

Q. Do you know whether it was in the morning or afternoon?

You will have to give us a verbal answer.

A. I can't remember.

JUDGE BENNETT: How long did the meeting last?

THE WITNESS: It was probably about 20 minutes.

BY MR. MIDDLETON:

Q. Now, would you tell us—First of all, was he in the office when you arrived? Was he in Mr. Crocker's office when you arrived in Mr. Crocker's office that time?

[19] A. I can't remember.

JUDGE BENNETT: In any event, you were there for 20 minutes with him?

THE WITNESS: Yes.

JUDGE BENNETT: And Mr. Crocker?

THE WITNESS: Yes. Our normal procedure is for the individual to be escorted in the office. I would have already been in there.

I can't honestly tell you if that is exactly the way it happened that day or not.

BY MR. MIDDLETON:

Q. Do you recall when you entered the office who was present?

A. No. I know that the conversation was with Jim Crocker, Clint Waller and myself. I can't remember if I walked in and they were there or Clint walked and Jim and I were already there.

Q. Could you tell us, as best you recall, what was said from the beginning of the conversation until it ended, using the words that each person used?

A. As best I can recall, yes.

Clint came in to talk with us because he was very upset about the strike and the way that the Union was representing the employees.

Q. Well, you are summarizing now. I would like for you to [20] just to tell us what was said, not to summarize.

JUDGE BENNETT: Try to use his words as well as you recall. I realize you can't quote him word for word, but give us the best of your recollection.

THE WITNESS: Okay. "I wanted to come in and talk with you today, because I am upset with the Union. I haven't been working the picket line. I don't intend to work the picket line. I don't think the Union is representing us. I would really like this thing to get over with, and I wanted you to know that.

"In addition to that, I have decided to withdraw my membership from the Union and want to know how that affects my unemployment benefits."

At that point I would have told him that we didn't know about his unemployment benefits and whether or not—

BY MR. MIDDLETON:

Q. You say you would have told him? I want to know what you said exactly so far as you presently recall?

A. Okay. I did tell him. I can't remember the sequence of the entire conversation. I did tell him at one point that I had no idea how it would affect his unemployment benefits, because I didn't, and whether or not he resigned from the Union I did not know what effect that would have.

That was totally between him and the Union.

Q. Anything else?

[21] A. I just know that he kept expressing his dissatisfaction with the way in which the Union was handling the situation.

Q. But you have told us what you remembered him saying at that time.

Is there anything else that he said that you presently recall?

A. Other than to reiterate his ideas, no, I can't at this point.

Q. Did Mr. Crocker make any statements during that time?

A. I know he did, but—

Q. Can you tell us what you recall him saying?

A. They would be along the same lines as mine.

Q. You don't recall, then, what Mr. Crocker said to Mr. Waller at that time?

JUDGE BENNETT: I believe she said—

A. Verbatim. I don't know. I am sorry.

JUDGE BENNETT: I believe she said in essence he said the same thing she did.

BY MR. MIDDLETON:

Q. But as to the actual words used by Mr. Crocker you don't recall; is that right?

A. No, I don't.

Q. Do you recall any other statements made by Mr. Waller at that time?

A. I am trying to remember.

[22] JUDGE BENNETT: Is your answer that you don't recall?

THE WITNESS: I don't recall.

BY MR. MIDDLETON:

A. No, I did not.

Q. Did you later make any notes, in other words, after the meeting was over, did you make any notes as to what was said?

A. No, I did not.

Q. Did you do that with reference to any of the discussions you had with the employees about their interests or disinterest in the Union?

A. Yes, I did.

Q. Which employees were those involved in those cases where you made such notes?

A. I have notes of a discussion with J. R. Blackshire, Raymond Brunner, Pete Doucette. That's D-o-u-c-e-t-t-e.

Q. Pete Doucette?

A. Yes.

Q. He is not one of the names you gave us earlier, is he?

A. No, he isn't, but I have notes of a conversation I had with him, and Shady Goodson.

JUDGE BENNETT: You have named four people?

THE WITNESS: Yes.

[23] BY MR. MIDDLETON:

Q. Doucette, Brunner, Goodson and Blackshire?

A. Yes, sir.

Q. Did either of those persons sign any statements confirming what they told you?

A. No.

JUDGE BENNETT: You made notes when you spoke with them or afterwards or what?

THE WITNESS: I did not make notes as I spoke with them, but it would have been immediately afterwards.

BY MR. MIDDLETON:

Q. What did you do with those notes?

A. I kept them.

Q. Do you have them with you today?

A. We do.

Q. Would you be so kind as to present those?

MR. MIDDLETON: Well, I will withdraw that at this time.

BY MR. MIDDLETON:

Q. In the conversation that you had with Mr. Waller, which I gather from what you have told us was the first such conversation you had with him the employees regarding their disinterest in the Union?

MR. MORSE: Objection.

A. No.

[24] MR. MORSE: I object, Your Honor. That's misstating the evidence.

JUDGE BENNETT: Overruled.

BY MR. MIDDLETON:

Q. Am I incorrect?

A. That is not the first conversation I had with the employees.

Q. Regarding their disinterest in the Union?

A. Correct.

Q. What was the first conversation you had? Who was it with?

A. The very first conversation would have been with Tony Lopez.

Q. When did that conversation occur?

A. It was probably the first two weeks in June.

Q. Who was the next person you had such conversation with?

A. Bill Lee.

Q. When did it occur?

A. About the same time period.

Q. The same time period as with—

A. Tony Lopez.

Q. —Tony Lopez?

A. Yes.

Q. Okay. And who was the next person?

A. J. R. Blackshire. No. Excuse me. It would have been [25] with Shady Goodson.

Q. When did your conversation with Shady Goodson occur?

A. June 19th.

Q. Mr. Goodson was one of the shop stewards there; is that correct?

A. He was a chief steward, yes.

Q. Mr. Blackshire was the other steward?

A. No. J. R. Blackshire had been a steward before, but he wasn't right then.

Pete Doucette was a steward.

Q. Pete Doucette. Pete Doucette was a steward at the time you had the conversation with him; is that your testimony?

A. Yes.

Q. And Blackshire was a former steward, as you stated in your affidavit; is that correct?

A. Right.

Q. For what period of time did Blackshire serve as a steward?

A. I can't tell you offhand.

Q. Was it during the time—Can you give us just an approximate time frame in connection with the statement or discussion you had with him? Was it a year, six months before or how long?

A. I would say it was at least prior to a year before, but I am not really sure.

[26] JUDGE BENNETT: We will take a five-minute recess.

MR. MIDDLETON: All right.

(Whereupon, a short recess was taken.)

JUDGE BENNETT: On the record.

MR. MIDDLETON: Your Honor, at this time, General Counsel would like to object on the record to the witness having immediately engaged in discussion with Counsel over the objections of the General Counsel while the Court was in recess.

JUDGE BENNETT: Do you mean during the recess while I was out of the room?

MR. MIDDLETON: Yes.

MR. MORSE: Your Honor, I advised the witness simply to relax and to listen to the question, whereupon General Counsel jumped on me and started threatening me and my client about how to conduct ourselves.

I hope I was not out of line in doing that.

JUDGE BENNETT: I see nothing wrong with the witness talking with her or his counsel, with the exception, and that apparently is not the case here, that Counsel will tell a witness what to say or what not to say.

Do you quarrel with Counsel for Respondent as to what he allegedly said?

MR. MIDDLETON: Well, Judge, if you are merely telling the witness to relax, I don't think it would have been a [27] whisper during the discussion.

JUDGE BENNETT: You are saying he whispered?

MR. MIDDLETON: Yes, sir, that's true.

JUDGE BENNETT: Then you don't know what he said?

MR. MIDDLETON: That's true. I presume that it was something that –

MR. HORTON: Your Honor, I heard the witness and –

MR. MORSE: Wait a second.

JUDGE BENNETT: Wait a minute. I will overrule the objection. Next question.

BY MR. MIDDLETON:

Q. Ms. Price, you mentioned Sandra Hutton. When was Sandra Hutton hired?

A. It's Hutto.

Q. Hutto. I am sorry.

A. I could only estimate that it was something like two or three months prior to the lockout.

Q. Was she on check-off at the time the lockout occurred?

A. She did not pay dues.

JUDGE BENNETT: You used the phrase "lockout."

What does that mean to you?

THE WITNESS: We locked the employees out.

MR. MIDDLETON: I think we can get a stip – well, I will ask Counsel.

Are you willing to stipulate that the employer locked [28] out the employees on or about June 4th, 1979?

MR. MORSE: Your Honor, we will stipulate to that, if the General Counsel in turn will stipulate the legality of the lockout is not an issue in the lawsuit.

MR. MIDDLETON: I will, Your Honor.

JUDGE BENNETT: All right. So stipulated.

We have a strike in the situation.

MR. MIDDLETON: That's true.

JUDGE BENNETT: Can we agree on the date of the strike?

MR. MIDDLETON: Yes, sir. The strike occurred – I would propose to stipulate that the strike commenced on June 13 and terminated on July 15th, 1979.

MR. MORSE: Your Honor, for the purpose of arranging the stipulation, can we go off the record for a moment?

JUDGE BENNETT: Off the record.

(Discussion off the record.)

JUDGE BENNETT: On the record.

Do you have a stipulation?

MR. MIDDLETON: Your Honor, we will stipulate that the strike commenced on June 13.

JUDGE BENNETT: June 13, 1979?

MR. MIDDLETON: '79, that's correct.

MR. MORSE: We join in that stipulation, Your Honor.

JUDGE BENNETT: All right.

[29] BY MR. MIDDLETON:

Q. Isn't it also true, Ms. Price, that Alvin Harper and Tony Lopez were not on dues check-off status?

A. That's true.
Q. They had never been since they were hired?
A. Correct.
Q. Weren't they also hired immediately prior to the lockout?
A. I am not sure when they were hired. I thought Tony had been there like six months and Alvin, I am not sure of.
Q. You are not sure about Alvin?
Do you have any estimation as to how long he had been there before the lockout?
A. No, I do not.
Q. Now, directing your attention back to the discussion you had with Mr. Waller, have you told the Court all that you recall about that conversation?
A. That's all I can recall right now, yes.
Q. Of course, I am referring to where you and Mr. Crocker were present.
A. Yes, sir.
Q. Do you have any better recollection as to the date of that conversation?
A. No, I do not.
Q. Now, would you tell us where the conversation with [30] Tony Lopez and you occurred?
A. Yes. It was in the receiving area of the warehouse.
Q. Of the warehouse, and who was present at that time?
A. There were a number of conversations. It was usually just Tony and I.
Q. Just the two of you in the receiving area of the warehouse?
A. Right.
Q. And do you recall what time of the day this conversation occurred?
A. Well, there were, like I say, a number of conversations, and it would have been at any time during the day, because I was working in the receiving department.

Q. Was he also working in the receiving department?
A. Yes, he was.
Q. What was his job classification?
A. He is a warehouse worker.
Q. And you have told us you had a number of conversations with him in that working situation?
A. Right.
Q. I just want to focus your attention on the one where he expressed his displeasure with the Union to you.
Did you have more than one such conversation with him or was there just one such conversation?
A. There was more than one.
[31] Q. How many were there as you expressly recall?
A. I can't tell you exactly, because we worked together everyday but there were at least two.
JUDGE BENNETT: Did he initiate the conversations?
THE WITNESS: Yes, sir.
BY MR. MIDDLETON:
Q. Well, you said you recall two.
Would you tell us which of those was first?
A. Okay. There was one where the two of us were checking in some items off the trucks, and he started expressing his views about the Union.
Q. Let me interrupt you for just a second.
This would have been during the first week of June?
A. The first or second week.
Q. The first or second week. Okay. Sometime during that first two-week period?
A. Right.
Q. Continue, please.
A. Okay. He said that he thought the Union had done nothing for those employees. He was not paying Union dues because he would not support the Union in any way.
He had, from the time he was hired been asked—his word was harassed by the other employees to pay the Union dues and he refused.

In addition to that he thought that the business [32] representative was not doing his job to represent the people as he should have.

Q. I think what I am hearing is a summary.

Would you just try and use the words that he used as you presently recall?

A. Okay. I will repeat all of it.

JUDGE BENNETT: I think in essence she has done that.

THE WITNESS: If you say where I said that he said, just say I, and that would express it.

Q. In other words, if there was some comment by you in between some of those remarks, I would like that, too.

In other words, if he said, "I don't like the way the Union representative is doing his job," if you made a response to that I would like to hear what your response was.

A. Okay. I never responded. I listened. I had no response to what he was saying.

Q. During either of the conversations?

A. During any of those conversations.

Q. Okay. If you would go ahead, then, and finish telling us what you proceeded to do, I would appreciate it.

A. Okay. I think in my conversation that's about all he said.

Q. Approximately when, in connection with that conversation, did the next one occur?

[33] I realize you don't have the dates, but the number of days?

A. It was a couple of days later, and I remember it because we were taking a break looking out the receiving door and the business representative, Howard Reed, drove up, and that is when he started the other conversation.

Q. All right. Would you tell us again what you presently recall being said during that conversation by Mr. Lopez?

A. He—Do you want the exact words?

Q. As best you presently recall.

A. Well, he used a lot of profanity.

Q. Well, I realize that that may be something you are not accustomed to, but if you have no reservations about it the Court is accustomed to that, and so are we.

A. Okay.

JUDGE BENNETT: I have heard my share of it before.

THE WITNESS: Oh, I have, too. I just feel funny saying it.

JUDGE BENNETT: Just use the language.

THE WITNESS: Okay. He saw Howard Reed drive up and he said, "There is that rotten S.O.B. that is screwing the employees, taking their money, and doing nothing for us," or the people who are paying the dues.

BY MR. MIDDLETON:

Q. Did he say anything else?

[34] A. He again reiterated that he wasn't going to pay dues to that Union and he really thought it was a waste paying them?

JUDGE BENNETT: A what?

THE WITNESS: A waste.

BY MR. MIDDLETON:

Q. Is that all you recall from that conversation?

A. Yes.

Q. Now, who was the next person—Well, I believe you testified earlier that Bill Lee and you had similar discussions during that same period of time?

A. That's right.

Q. Was there one or more than one such conversation with Bill Lee?

A. With Bill, I only remember one time him talking with me.

Q. Where did that conversation take place?

A. That was back at the shipping docks.

Q. And was that his regular work area?

A. Yes.

Q. Did he initiate that conversation or did you initiate it?

A. He initiated it.

Q. How was it that you were in that area at the time?

A. I was delivering goods from receiving or back there [35] checking freight bills, something of that nature.

Q. Just for the record, you mentioned earlier that you were working in the receiving area?

A. Yes.

Q. Was that a regular activity on your part as a part of some job duty that you had?

A. No.

Q. How did you happen to be in the receiving area during those times you had the conversations with Tony Lopez?

A. During the lockout Management worked the warehouse, and I usually worked in receiving.

Q. Okay. So, it was during the time that you were helping to carry on the activities while the lockout was in effect?

A. Yes, and even after the strike a few of us worked to help the new employees.

Q. Now, would you proceed to tell us about the conversation you had with Bill Lee?

A. Yes. Bill expressed—He said that he was not paying dues to the Union and he didn't intend to, and he didn't because he didn't support the Union and really didn't think that they had done anything for the employees.

Q. Is that the extent of that conversation as you presently recall?

A. Yes.

Q. Now, Raymond Brunner; when did you have a conversation [36] with Mr. Brunner?

A. On July 12th, and that was the day he came in to retire.

Q. Where did that one take place, that conversation?

A. I don't have in my notes where it was. I think it was in Tim Martin's office. It was in an office. I am assuming it was Tim Martin's or Pete Hacker's.

Q. Who was present during that conversation?

A. Tim Martin and myself.

Q. What is Mr. Martin's position?

A. He was at that time Area Manager for the Southwest.

JUDGE BENNETT: Was anyone else present?

THE WITNESS: No, sir.

BY MR. MIDDLETON:

Q. Would you tell us, as best you recall, what was said during--First of all, were you present during that entire visit by Mr. Brunner?

A. Yes.

Q. Would you tell us what was said from the beginning to the end of the visit by Mr. Brunner and by Mr. Martin and yourself?

A. Raymond said that he had been thinking about retiring ever since the lockout occurred. He had talked it over with his wife. His wife was working, and he decided to do so.

His reason for retiring was he didn't want anything to [37] do with the Union again. He made that statement two or three times, that he just didn't want to have to work with the Union anymore.

Q. And was there anything else that he said during that conversation that you recall?

A. He expressed his feelings about the Company and leaving the Company at that point, and how he really

didn't want to leave and it was a rough decision, but he had decided to do so.

Q. Was that the extent of the conversation as you presently recall?

A. Yes, I think so.

Q. How long did it last?

A. Oh, I think it was like ten minutes.

Q. Did Mr. Martin or yourself make any comments or statements during that visit?

A. Yes. We—

Q. Will you tell us separately? In other words, identify what your statements were as opposed to Mr. Martin's, tell us what each of you said?

A. Okay. Tim expressed a couple of times that he hated to see Raymond leave. He had been with the Company a long time and he just hated to see him leave.

I just, more or less, repeated the same thing, and other than that, expressing those ideas, we didn't say [38] anything.

Q. Would you tell me again who those persons were where you made the notes? I know Mr. Brunner was one.

A. Yes. J. R. Blackshire, Shady Goodson and Pete Doucette.

Q. How do you spell Mr. Doucette's last name?

A. D-o-u-c-e-t-t-e.

Q. Four persons; is that correct?

A. Yes.

Q. Now, who was the next person after you had the discussion with Mr. Brunner that you had such discussion?

A. Well, there were discussions before Mr. Brunner.

Q. Pardon me. Who would have been after Mr. Lee? If I understood your testimony, up until this time, Tony Lopez and Bill Lee were one after the other, in other words?

A. Correct.

Q. During that same two-week period of time?

A. Right.

Q. Were there some discussions similar to these before you talked with Tony Lopez and Bill Lee?

A. No, there weren't.

Q. So it would have been after the Lopez and Lee discussions?

A. Yes.

Q. Who was the next person you spoke to after Lee regarding their disfavor with the Union?

[39] A. Shady Goodson.

Q. Now, what, insofar as you presently recall—I believe you have already testified that that occurred on June 19th?

A. Yes.

Q. Could you tell us how it is you know that it was June 19th?

A. I made a memo of the conversation.

Q. Would you tell us where that conversation took place?

A. It was in Jim Crocker's office.

Q. Who was present?

A. Jim Crocker, Shady Goodson and myself.

Q. Would you tell us what was said during that conversation by each of the persons present?

A. Okay. Jim and I didn't really know why Shady came in.

He did almost all of the talking, and he said that he was really in the middle of a situation that he found very uncomfortable. He was in the middle because the employees did not want to strike.

The Union did want the strike, and he as the chief job steward found himself making picket rosters, that the

people would not cooperate with him. He couldn't get them to man the lines.

He said that he had to do the picket rosters without any help from the Union. He felt like they were paying their dues and not getting anything for it.

[40] He, in general—He kept expressing his frustration with the situation because he wanted it to be over with.

Q. Was there anything more?

A. He did indicate that J. R. Blackshire and Pete Doucette had expressed the same concerns as he, that the Union wasn't really supporting the people and assisting them with the strike as they thought it should have.

Jim Crocker didn't really respond in any way, nor did I.

Q. You all made no statements during that visit at all?

A. I can't remember any.

Q. How long did this meeting last?

A. Ten or 15 minutes.

Q. Who was the next person that you had such a conversation with?

A. It would have been J. R. Blackshire.

Q. Do you remember the date of Blackshire's discussion?

A. Yes. It was June 27th.

Q. Where did that one take place?

A. That took place in Tim Martin's office.

Q. Who was present?

A. Tim Martin and myself and J. R.

JUDGE BENNETT: How did that meeting come about?

THE WITNESS: J. R. came in to make a request for unconditional reinstatement.

[41] JUDGE BENNETT: Unconditional what?

THE WITNESS: Reinstatement.

JUDGE BENNETT: Unconditional reinstatement.

BY MR. MIDDLETON:

Q. Would you tell us what was said during that conversation, as you presently recall?

A. J. R. was upset. He—

Q. Just a moment, Ms. Price.

JUDGE BENNETT: Just what he said.

THE WITNESS: Just what he said?

JUDGE BENNETT: Yes.

BY MR. MIDDLETON:

Q. Right.

A. Okay. He said he had gone on vacation during the lockout. He had returned to find the situation was as it was.

He walked the picket line for a while and then stopped because he found that the Union wasn't paying them to walk the picket line. He finally got paid to walk the picket line for one week, and they took out the Union dues which really, in his words, made him mad.

He also indicated that he had to go to the Union hall to pick up his strike money instead of them bringing it to him out on the line, so he quit walking the picket line.

He had also found another job at that point, but he [42] would like to have his job back with CMS.

Q. Was there any response to Mr. Blackshire's statements by you or by Mr. Martin?

A. Yes. I gave him a short little memo that he could sign stating that he was requesting the unconditional reinstatement, and it indicated to him that he should keep us informed of his current address and phone number so we could contact him.

Q. Were there any other verbal, other kinds of responses given by you or Mr. Martin to Mr. Blackshire's statements?

A. I can't remember any.

Q. Is that the extent of that conversation, insofar as you presently recall it?

A. No, it isn't.

Q. Would you tell us what you recall?

A. Okay. J. R. walked out of Tim Martin's office and went into the warehouse to see a couple of his friends.

I followed a couple of minutes later and he called me over to talk with me.

Q. Was this in the warehouse where he called you over to talk with him?

A. Yes.

Q. Who was present during that discussion between J. R. and yourself?

A. As soon as J. R. called me over to the side, I asked [43] Ian Knapp, the Operations Manager for Houston—

Q. What is the first name?

A. Ian, I-a-n Knapp, K-n-a-p-p. He was Operations Manager of the Houston branch, and I asked him to come over to listen to the conversation.

Q. So, there were three persons present, yourself, Mr. Knapp and Mr. Blackshire?

A. Yes, sir.

Q. This occurred in what area of the warehouse?

A. It was right by the shipping area, the packing area.

Q. Would you tell us what was said by each of the persons present during that conversation?

A. Ian and I said nothing.

Q. What did Mr. Blackshire say?

A. J. R. said that there was no Union, that the people were not supporting it, and he said two or three times that there is no Union anymore.

He then told us that there were other people that wanted to come back to work, and he also gave us names of some people he thought would be good employees that we ought to get back.

Q. Did he tell you who the other persons were that wanted to return to work?

A. He told me some of them, yes.

Q. Who did he tell you they were?

[44] A. He said Pete Doucette, Betty Goodson, Alvin Steele.

Q. How do you spell the last name?

A. S-t-e-e-l-e. And Shady Goodson.

Q. Who else did he say would be a good employee if rehired?

A. He—I'm not sure I will remember all of them. I think there were five.

He said Alvin Steele, Betty Goodson, Raymond Brunner and, offhand, I can't remember the others.

Q. Were there other remarks that were made during that particular conversation?

A. He repeated what he had said in Tim's office about being upset about the picket line and not getting his pay and the Union not supporting them. The conversation was lengthy. He just kept repeating himself.

Q. He just told you the same thing over and over?

A. Yes.

Q. Approximately how long did this conversation in the warehouse last?

A. I would say 15 minutes.

Q. Is there anything else you recall him saying during that conversation?

A. No, I don't, right now.

Q. Did you have any other conversations other than these two with Mr. Blackshire regarding his displeasure with the Union?

[45] A. No.

Q. Who was the next person you had such conversation with?

A. Shady Goodson.

Q. Well, that would have been when?

A. Oh. I was thinking—Never mind. Shady came in the next day to ask for reinstatement.

Q. Was there any discussion during that visit by Shady of any displeasure with the Union on his part?

A. I don't recall any. It : . .

JUDGE BENNETT: You stopped your answer. Did you want to say anything more?

THE WITNESS: I started to say it was a short conversation.

BY MR. MIDDLETON:

Q. That would have been on June 28th; is that correct?

A. Yes.

Q. Were there any other special discussions or have we now heard about all of those discussions with the employees who told you they were dissatisfied with the Union?

A. Well, I indicated there was notes of the conversation with Pete Doucette.

Q. Tell us about that conversation. When did it occur?

A. That was June 28th.

Q. Where did it take place?

A. In Tim Martin's office.

[46] Q. Who was present?

A. Tim Martin, myself and Pete Doucette.

Q. How did he happen to be there in Mr. Martin's office at that time?

A. Pete came in to ask for unconditional reinstatement to his job.

Q. And would you tell us, as you have done already with regard to the others, what was said by each of the persons present during the visit?

A. Pete said that he was sorry that the situation had occurred. He wanted his job back.

He had had many years with CMS. He liked his job. He liked the work he was doing, and he wanted his job back.

Q. Anything else?

A. No.

Q. How long did that conversation last?

A. About five minutes.

Q. Now, are there any other such conversations that you haven't told us about?

A. No.

Q. Did any one of those employees that you have just talked about who expressed their displeasure with the Union, hold any positions with the Union other than Mr. Blackshire and Mr. Goodson?

A. Pete Doucette was a job steward.

[47] Q. He was a job steward. And this was at the time of the statement; is that correct?

A. Yes.

Q. Had you dealt with each of them in the past in relations to any of the Union business?

A. Yes.

Q. I mean in their capacities as shop stewards?

A. Yes.

Q. That's true as to all three of them; is that correct?

A. I never dealt with J. R. that I can remember as a steward.

Q. Did anyone else that you know of in Management deal with him as a steward?

A. I'm sure they did, but I don't have any knowledge of it.

Q. Then how do you know that he was actually a steward?

A. I saw him on a list of stewards in one of the files.

Q. Did you receive a list of the stewards from the Union in accordance with some agreement you had?

A. No. I can't remember how they did that, if they wrote us a letter or what.

Q. When did you see that list?
A. I can't remember.
Q. Do you know where the list is at this time?
A. I would assume it's still in the file. I haven't seen [48] it for a long time.
Q. Do you recall when you last saw that list?
A. No.
Q. Did Blackshire tell you during the discussions that he was a shop steward?
A. I don't think he mentioned it.
Q. Are you basing your statement that he was a steward, then, upon what you saw in the files?
A. That and just conversations that Tim Martin and I would have.
Q. In any of the conversations that you and Mr. Martin had at some time prior to the time you talked to Blackshire?
A. No. At the time we talked to Blackshire.
Q. There was something said during that discussion that confirmed the fact he was a steward?
A. No. After the discussion.
Q. What was said?
A. Tim mentioned that J.R. was a leader in the group, that he wasn't a shop steward now but he had been.
Q. You stated in your affidavit that the Union had difficulty manning the picket line.
What is the basis for that statement?
A. We were told that by Shady Goodson. We also started seeing the numbers of people, the time spent on the picket dwindle.
[49] Q. That constitutes the basis for that assertion in your affidavit?
A. In addition to Shady Goodson telling us that, yes.
Q. In other words, there were two reasons for that. One is Shady Goodson's statement and your observation

of the amount of time the employees spent on the picket line?
A. Right.
Q. When did you first advise the Union that you doubted that it represented a majority of the unit employees?
A. That it didn't represent them?
Q. When did you first advise the Union that you doubted it represented a majority of the unit employees?
A. July 20th.
Q. That was in your telegram to the Union?
A. Yes.
Q. And now that you have given us the discussions, can you tell us more precisely when it was that you actually concluded that the Union no longer actually represented a majority of the employees?
A. I would have to say, based on the conversations, we concluded after J. R.'s, our conversation with J. R., and it was reconfirmed again with Clint Waller and Raymond Brunner.
Q. J. R.'s conversation being June 27th?
A. Yes.
[50] Q. In your telegram, I believe you stated that the—
JUDGE BENNETT: Are you talking about Appendix I?
MR. MIDDLETON: Let me take a quick look here to see if that is the correct one.
Correct, Judge. While this is in evidence as Appendix I to the General Counsel's Motion, Your Honor, I would just like to have it—I would like to show her the original of that document.
BY MR. MIDDLETON:
Q. And ask you if you recognize that as the telegram you sent to them on the 20th of July, 1979?

A. Yes.

Q. In here I notice that you also state that the May 25th offer is no longer available.

When did it become no longer available to the Union?

A. When it was rejected at our last negotiation session.

Q. When was that?

A. June 12th.

MR. MIDDLETON: May I have just a minute to look over my notes, Your Honor?

JUDGE BENNETT: We will take a five-minute recess.

(Whereupon, a short recess was taken.)

JUDGE BENNETT: On the record.

Does the General Counsel have anything further?

MR. MIDDLETON: Yes, Your Honor.

[51] BY MR. MIDDLETON:

Q. Ms. Price, while you advised the Union on July 20th by telegram that we have referred to earlier that you doubted its majority status among Union employees, you at no time told the Union what that doubt was based upon, did you?

A. No.

Q. And at no time did you . . .

MR. MIDDLETON: I will withdraw that.

JUDGE BENNETT: You were asked whether or not you had told the Union what your doubt was based on, and your answer was "no." Is that correct?

THE WITNESS: No, I did not tell them.

BY MR. MIDDLETON:

Q. Now, prior to the time that you gave your December the 14th affidavit that was attached to the Employer's Motion in opposition to the General Counsel's Motion for Summary Judgment, you never advised the NLRB of the matters contained in that affidavit, did you?

A. No, I didn't.

Q. And you never had your Counsel advise the Board of that same information, did you?

A. I—

JUDGE BENNETT: If you know.

THE WITNESS: I don't know.

[52] BY MR. MIDDLETON:

Q. Now, do you recall when the negotiations began that led to the lockout?

A. Our first session was May 2nd.

Q. And do you recall when the last such session occurred on these bargaining sessions?

A. June 12th.

Q. At that time you advised the Union that you were not prepared to make any movements on your May 25th offer; is that correct?

A. No. They advised me of that.

Q. The Union advised you of what?

A. That they were not—that he was not going to make any movement in that session.

Q. Well, did you not discuss your May 25th offer during that session?

A. Yes.

Q. What did you tell the Union about the May 25th offer at that time?

A. We went back through it again.

Q. It was in effect unchanged from May 25th; isn't that true?

A. That's true.

Q. And at that point the Union did not accept it; is that right?

[53] A. Correct.

Q. Did you advise the Union at any time that the May 25th offer was your last and final offer?

A. No.

Q. Was it in fact your last and final offer?

A. No.

Q. Did you make another offer subsequent to the May 25th offer?

A. No.

Q. Then it was, in fact, the last final offer that you made; is that not true?

A. It was the last offer, the last proposal we discussed.

Q. So it was the last and final proposal that you made to the Union on the new contract; is that correct?

A. Maybe we are talking semantics, but it is the last proposal we discussed in negotiations.

MR. MIDDLETON: May I have this marked as General Counsel's Exhibit 2?

(The document referred to was marked for identification as General Counsel's No. 2.)

BY MR. MIDDLETON:

Q. Let me show you what has been marked as General Counsel's Exhibit 2, and ask you if you can identify it, Ms. Price?

[54] A. That is a, I guess you would call it a, summary of the proposals which we discussed on May 25th and June 12th.

It is not the entire proposal.

Q. But is it substantially the proposal that we have been referring to as the May 25th offer?

A. Yes, I think I can say that.

Q. Would you like to examine it? There are several pages to it. There are really four pages, not all of which are full, but from looking at each of them does that appear to be the offer that we have been discussing this morning as the May 25th offer?

A. Yes it does.

MR. MIDDLETON: Your Honor, at this time, I would offer in evidence General Counsel's Exhibt 2, and ask per-

mission to withdraw it to make the appropriate copies to furnish to Counsel.

MR. MORSE: Just a moment, Your Honor, and let me verify this.

MR. MIDDLETON: I have the necessary copies, Your Honor.

MR. MORSE: We have no objection, Your Honor.

JUDGE BENNETT: I will receive it.

[55] (The document referred to, having been previously marked for identification as General Counsel's Exhibit 2 was received in evidence.)

MR. MIDDLETON: At this time I offer into evidence General Counsel's Exhibit 2 with the appropriate copies.

JUDGE BENNETT: It has been received.

BY MR. MIDDLETON:

Q. Now, except for the employees that you named in your testimony here this morning, Ms. Price, you have no knowledge of any other employees' displeasure with the Union; isn't that true?

A. I don't remember any other employees saying anything.

Q. And you don't have any reason to doubt your memory as to that, do you?

A. No.

Q. In preparing your testimony for this case did you have the occasion to review the notes from the discussions that you held with Mr. Blackshire and Mr. Goodson, Mr. Doucette and Mr. Brunner?

A. Yes, I did.

Q. Do you have those notes with you today?

A. Yes.

MR. MIDDLETON: At this time, Your Honor, General [56] Counsel would move for the production of those notes.

MR. MORSE: Your Honor, we intend to offer them in their entirety on our part of the case.

We will produce them now if the General Counsel is insistent on it.

MR. MIDDLETON: I would like to have the opportunity to review them, Your Honor, before I release the witness.

JUDGE BENNETT: All right. Counsel will produce them.

MR. MIDDLETON: May we go off the record a moment, Your Honor?

JUDGE BENNETT: Off the record.

(Discussion off the record.)

JUDGE BENNETT: On the record.

It has been suggested that the General Counsel inspect these notes and that we consolidate it with an early luncheon break, and everyone seems to be in agreement with that, including my hungry stomach.

Respondent has asked whether he, at my instructions, should be restrained from lunching with the witness.

I would not so order, with the caveat that Counsel is not to tell the witness what to testify or what not to testify to.

Is that agreeable?

MR. MORSE: Yes, Your Honor.

JUDGE BENNETT: I might add this was raised by [57] Respondent's Counsel of his own volition.

With that understanding, I have no objection to your lunching together. As a matter of fact, she is an attractive lady and if she were my witness I would have lunch with her.

On that basis, we will recess until 12:30.

(Whereupon, at 11:08 p.m., the hearing was recessed, to reconvene at 12:40 o'clock p.m., this same day, Tuesday, June 10, 1980.)

AFTERNOON SESSION

12:40 p.m.

JUDGE BENNETT: On the record.

You have had an opportunity to look over her notes; correct?

MR. MIDDLETON: Yes, I have, Your Honor.

Of course, I may not have made it clear. I wanted to review my own notes at that time, too, in addition to her statements.

JUDGE BENNETT: Very well. I trust this will be very brief?

MR. MIDDLETON: Hopefully, yes, I think so.

Would you mark these as General Counsel's Exhibt 3, through whatever number, please.

(The documents referred to were marked for identification as General Counsel's Exhibit No. 3, 4(a) through 4(c), 5(a) through (c) and 6(a) through (c).)

Whereupon,

ELIZABETH PRICE

resumed the stand and testified further as follows:

[59] **DIRECT EXAMINATION (Resumed)**

BY MR. MIDDLETON:

Q. Ms. Price, let me show you what has been marked for identification as General Counsel's Exhibit 3, and ask you if you would identify that for the Court, please?

A. Yes. These are notes that I prepared in Jim Crocker's office with his assistance right after our discussion with Shady Goodson.

Q. And the date?

A. June 19th.

Q. About 10:00 a.m.?

A. Yes.

Q. Was this the time when you prepared the notes at the time the conversation took place, actually took place?

A. At the time the conversation took place.

Q. I show you what has been marked as General Counsel's Exhibit 4(a) through 4(c), and ask you if you can identify that for the record?

A. 4(a) is Pete Doucette's request for unconditional reinstatement, and 4(b) is a transcription of my notes of that conversation, which are in shorthand on 4(c).

Q. I show you what has been marked for identification as General Counsel's 5(a) through (c), and ask if you can identify that document?

A. Okay. 5(a) is J. R. Blackshires's request for [60] unconditional reinstatement.

5(b) is the transcription of my shorthand notes of that meeting, which is 5(c).

Q. 5(c) is the shorthand notes that you made of the meeting?

A. Right.

Q. I hand you finally what has been marked as General Counsel's Exhibit 6(a) through 6(c), and ask if you can identify that document?

A. 6(a)is Raymond Brunner's request to retire. This is his request to us to process his retirement, and then 6(b) is a transcription of my notes at that meeting, which is 6(c).

Q. Of these documents you have just identified, none of those documents contain any statement signed by either of those individuals expressing any displeasure with the Union, do they?

A. No, they do not.

JUDGE BENNETT: Is it your custom to make records like these?

THE WITNESS: I try to whenever possible, yes.

BY MR. MIDDLETON:

Q. What was your purpose for making notes of these particular conversations and not those of Mr. Waller's?

A. I just didn't make notes of Mr. Waller's.

[61] Q. What purpose did you plan to use these notes for?

A. Just as memorandums for the record.

Q. For the record?

A. Yes.

JUDGE BENNETT: How would you explain your failure to do so in the case of Mr. Waller?

THE WITNESS: I really can't say, unless I just didn't have time or what-have-you.

JUDGE BENNETT: All right. Next question.

BY MR. MIDDLETON:

Q. Did you anticipate at that time you might be required to use these notes in some future proceeding involving the Union?

A. Well, I thought that what they were saying was important, yes.

Q. But my question is did you anticipate at the time you were making the notes that you might need them in some proceeding involving the Union?

JUDGE BENNETT: I think she has answered the question.

THE WITNESS: Yes.

BY MR. MIDDLETON:

Q. Now, isn't it a fact, Ms. Price, that under the last collective bargaining agreement executed between your Employer and the Union here there was a 60-day probationary period for new employees?

A. I think that – There was a probationary period. I don't remember if the contract was 60 or 90 days.

MR. MIDDLETON: Counsel, would you be willing to stipulate that the contract contained the 60-day probationary period for new employees?

I have a copy here. Specifically, it is Article VIII, Section 1.

MR. MORSE: We will stipulate to that, Your Honor.

JUDGE BENNETT: So stipulated.

MR. MIDDLETON: Just for the record, in the event it becomes a question later on, the contract we are referring to is one that is effective from the 22nd of May 1976 to and including the 21st day of May 1979.

MR. MORSE: We will stipulate to that, too.

JUDGE BENNETT: So stipulated.

Are you offering the exhibits?

MR. MIDDLETON: Not at this time, Your Honor. I may offer them later on. I need to proceed just a bit further.

JUDGE BENNETT: All right. Next question.

BY MR. MIDDLETON:

Q. Ms. Price, from your testimony, I gather that your doubts were based upon employee displeasure or what you perceived as to their displeasure with the Union was based upon information that you received from some 10 named employees, and if I have those names wrong, I would like [63] you to correct me.

Alvin Harper, Sandra Hutto, Tony Lopez, Bill Lee, Gilbert—I don't remember how you pronounced his last name.

A. Ozuniga, I think.

JUDGE BENNETT: Would you spell it for the record?

THE WITNESS: O-z-u-n-i-g-a.

BY MR. MIDDLETON:

Q. Raymond Brunner, Shady Goodson, Pete Doucette, Clint Waller and J. R. Blackshire?

A. I got the names, but I'm not sure what your question is.

Q. All right. These are the persons who expressed displeasure to you about the Union; is the correct?

A. No. Ozuniga never did.

Q. He did not. Can you say if any one of those persons who did not express displeasure to you about the Union?

A. Alvin Harper and Sandra Hutto.

JUDGE BENNETT: What, if anything, did those three do?

THE WITNESS: They crossed the picket line.

BY MR. MIDDLETON:

Q. Now, Mr. Ozuniga never was on check-off was he?

A. No.

Q. Sandra Hutto was never on check-off, was she?

[64] A. Correct.

Q. She was not?

A. She was not.

Q. Alvin Harper was not on check-off, was he?

A. No.

Q. Bill Lee was not on check-off, was he?

A. No.

Q. Gilbert Ozuniga was not on check-off?

A. No.

Q. In fact, Harper, Hutto and Lopez were all on probation, weren't they, at the time the lockout occurred?

A. I am not sure of that. I don't know their dates of hire.

Q. Other than for these persons that we have just named, do you have any knowledge of any other employee who did not support the Union at the time that you withdrew your recognition or made your decision to withdraw recognition of the Union?

A. None that I recall.

Q. What other factors, if any, did you base your decision to withdraw—

JUDGE BENNETT: Let's rephrase that. Did she make the decision.

MR. MIDDLETON: All right.

[65] BY MR. MIDDLETON:

Q. You did, in fact, make the decision, if I recall your testimony earlier, to withdraw recognition of the Union, did you not?

A. Yes.

Q. Did anyone else participate in that decision other than you?

A. Participate? I discussed it with my boss.

Q. Who is that person?

A. J. A. Rodenmeyer, R-o-d-e-n-m-e-y-e-r.

Q. What is Mr. Rodenmeyer's position with the Employer?

A. Senior Vice President.

JUDGE BENNETT: You discussed it with him and what came of that discussion?

THE WITNESS: We decided that they did not represent our employees, that they did not have the support of the employees.

BY MR. MIDDLETON:

Q. When did that discussion occur?

A. Throughout the time period involved.

Q. What is that time period?

A. From, I would say, starting with the lockout through July 20th.

Q. So, as early as June 4th you doubted the majority status of the Union; is that your testimony?

[66] A. We had an idea of that, and then through the discussions with other employees came to that conclusion.

Q. When you say with the other employees, which employees are you referring to?

A. Those that you have named.

Q. Now, did Mr. Rodenmeyer participate in any of those discussions with the employees?

A. No, he did not.

Q. So, the discussions Mr. Rodenmeyer had were just with you; is that correct?

A. Right.

Q. And you conveyed to him what you had gleaned from your discussions with these other employees during those discussions?

A. In a summary format, yes.

Q. And did he, in fact, agree with your assessment and conclusion . . .

MR. MIDDLETON: First of all, let me withdraw that.

BY MR. MIDDLETON:

Q. Who was the first person to conclude that the Union did not, in fact, represent a majority of the employees, between you and Mr. Rodenmeyer?

A. I was.

JUDGE BENNETT: I think the legal issue is who concluded that the Employer had a good-faith doubt.

[67] MR. MIDDLETON: I agree, Your Honor.

JUDGE BENNETT: I think that's the way the Board works it.

BY MR. MIDDLETON:

Q. Who was it between the two of you concluded that the Employer had, in fact, a good-faith doubt of the Union's majority status?

A. I did.

Q. Can you give us the time at which you first drew that conclusion?

A. Yes. After the discussions with Shady, J.R., Tony Lopez and Bill Lee.

JUDGE BENNETT: You have named how many people now?

THE WITNESS: Four, and then Clint Waller.

JUDGE BENNETT: That makes five?

THE WITNESS: Uh-huh.

BY MR. MIDDLETON:

Q. Now, after those discussions, how long after those discussions with those particular employees was it that you had your discussion with Mr. Rodenmeyer?

A. I talked—I had many discussions with him.

Q. I mean about the good-faith doubt of the Union's majority status?

A. I would say it was sometime early July when we had our first discussion, and then we would have subsequent ones.

[68] Q. Do you recall when you last had such a discussion before you communicated that position to the Union?

A. I probably discussed it with him every day that week.

Q. The week that you sent your July 20th telegram?

A. Right.

JUDGE BENNETT: And I gather he concurred in your judgment?

THE WITNESS: Yes, sir.

BY MR. MIDDLETON:

Q. And you were the only two persons involved in that decision; is that correct?

A. Yes.

Q. Now, were there any other reasons or basis, I should ask, for your decision that the Union no longer – pardon me – for your good-faith doubt the Union no longer represented a majority of the employees?

A. The fact that we had hired replacements and that we had had five people who crossed the picket line.

Q. Those five, among those, or included in those are those that we first named as the 10 employees that you have referred to in your earlier testimony; is that correct?

A. Correct.

JUDGE BENNETT: When you say five crossed the picket line you are talking about, and correct me if I am in error, five strikers who crossed the picket line?

[69] THE WITNESS: Yes.

BY MR. MIDDLETON:

Q. Could you tell us again who they were?

A. Sandra Hutto, Alvin Harper, Gilbert Ozuniga, Bill Lee and Tony Lopez.

Q. I am sorry. You got a little ahead of me. Alvin Harper –

A. Gilbert Ozuniga, Tony Lopez, Bill Lee.

Q. That's four.

A. And Sandra Hutto.

Q. You have named her. Let me see if I got it.

JUDGE BENNETT: Off the record. Let's not go through the names again.

(Discussion off the record.)

JUDGE BENNETT: On the record.

BY MR. MIDDLETON:

Q. Now, as I understand it, Ms. Price, your position is that the notes which you identified a few minutes ago as General Counsel's Exhibits 3 through 6 are complete and accurate descriptions of the conversations that you had with the employees in each of those documents; is that true?

A. Yes.

Q. And if I understand your testimony correctly, you took all of the shorthand notes contained in those documents?

A. Yes.

[70] Q. At the time the conversations actually occurred?

A. No. After the conversations occurred.

Q. Yes. I recall. It was after the conversations.

JUDGE BENNETT: For the record, I do not read shorthand, in the event you offer the exhibits.

MR. MIDDLETON: Yes. I had something in mind regarding that in the event they were to be offered.

Quite frankly, I was going to see whether or not we could get her to translate the shorthand for us.

JUDGE BENNETT: I will follow that.

I might add that when I was going to law school I wished I did take shorthand.

MR. MIDDLETON: So many times I felt the same way.

BY MR. MIDDLETON:

Q. You were the chief spokesman for the, spokesperson for the Employer during all of the bargaining sessions commencing on May 2nd through the last such bargaining session with the Union, were you not?

A. Yes.

Q. Now, I started asking this question once before, and I think I withdrew it.

Were there any other reasons . . .

MR. MIDDLETON: I withdraw that.

BY MR. MIDDLETON:

Q. I do recall that you have told us so far that your [71] good-faith doubt that the Union no longer represented a majority of the employees was based upon the conversations that you have described earlier today with the employees and upon the replacement and upon the fact that five employees crossed the picket line.

Were there any other reasons for that decision of yours?

A. Well, the fact that we haven't heard from the Union in such a long period of time.

Q. How long a period of time was that?

A. From June 12th through the time that we got the telegram on the 16th of July.

Q. Did the Federal Mediation and Conciliation Service not contact you during that time period regarding a bargaining session?

A. We were never contacted.

Q. Did FMCS, the Federal Mediation and Conciliation Service, at any time during the bargaining between the parties participate?

A. Yes.

Q. Did you not, in fact, hold your first bargaining session at the FMCS offices?

A. Yes, we did.

Q. Was not the June 12th bargaining session also held there?

A. Yes.

[72] Q. Does the name Dale Johnson ring a bell with you?

A. He was one of the Mediators.

Q. Do you recall who the other one was?

A. Richard Horne.

Q. Did either of them contact you at any time between the dates of July—pardon me.

Well, during this period of time when you state they didn't contact you?

A. After the June 12th meeting, no.

JUDGE BENNETT: I may be in error, but I think those gentlemen are precluded from testifying.

MR. MIDDLETON: That's true. Well, let me say that that's my opinion, Your Honor. I am not sure of that.

JUDGE BENNETT: Well, I have seen decisions holding their refusal to testify without permission from their superior, in the same context that you would be not permitted to testify without permission of the General Counsel.

MR. MIDDLETON: Correct.

JUDGE BENNETT: I think that's right. All right. Next question.

BY MR. MIDDLETON:

Q. You are not telling us, though, they never did make any contact with the Employer, are you, Ms. Price?

A. To my knowledge, they didn't contact us.

Q. And you are saying that the Union didn't make any [73] direct efforts, at least to your knowledge, they never made any direct contact with you during that time insofar as bargaining is concerned; is that true?

A. There was one letter of June 28th, I think, that referred to something that had occurred earlier in June prior to our June 12th meeting.

Q. Did you make any contact with the Union during that period of time?

A. No, I did not.

Q. I mean between June 12th and July 16th?

A. No, I did not.

Q. You didn't speak to them or write to them; is that correct?

A. Correct.

MR. MIDDLETON: That was really a duplicitous question.

BY MR. MIDDLETON:

Q. You did not speak to them between July 12th and July 16th regarding any of the bargaining efforts?

A. Right.

Q. You did not write to them between July 12th and July 16th?

A. I remember I wrote them a letter, now that I think about it, on the wage proposal but I don't know the date of that letter.

Q. Do you think it was, in fact, between those dates?

[74] A. (No response.)

MR. MIDDLETON: Let's mark this as General Counsel's Exhibit 7.

(The document referred to was marked for identification as General Counsel's No. 7.)

BY MR. MIDDLETON:

Q. Is this not the letter that you just alluded to?

A. That's it.

JUDGE BENNETT: And the date is?

THE WITNESS: June 18th.

JUDGE BENNETT: If I may say so, I think we are spending an awful lot of time with this witness.

MR. MIDDLETON: I think I am about finished, Your Honor. Let me just double-check some notes here.

JUDGE BENNETT: All right.

MR. MIDDLETON: Your Honor, I would like to say for the record, that the testimony elicited from the witness regarding conversations which she had with employees is not elicited or offered for the purpose of – pardon me – to establish the truth of the matters asserted therein, but merely to inquire into the basis of this witness' conduct she has described with reference to her withdrawal of recognition of the Union.

JUDGE BENNETT: I have in front of me the decision of [75] the Fifth Circuit in Randle-Eastern Ambulance Service cited by Respondent in its Cross-motion for Summary Judgment, specifically reported in 584 F.2nd 720 and 726 which, in my judgment – I should say my offhand superficial judgment, contains rather strong language, and I believe we are in the Fifth Circuit.

MR. MIDDLETON: That's true. I haven't read that part of the decision you are referring to. At least I don't know which part you are referring to right now.

Is it dealing with the issue of the admissibility of the testiony?

JUDGE BENNETT: No. You and I are in the same boat. We both read it superficially.

In any event, you say you are about through with the witness?

MR. MIDDLETON: Yes.

JUDGE BENNETT: Does the Charging Party have anything?

MR. REED: Anything I wish to say?

JUDGE BENNETT: What?

MR. REED. I am sorry, sir, I didn't hear what you said.

JUDGE BENNETT: Do you have any questions?

MR. REED: No, sir, no questions.

JUDGE BENNETT: All right.

MR. MORSE: I just have a few questions.

MR. MIDDLETON: Your Honor, before he proceeds, may I [76] ask one question of Counsel, and that is at this time is he going to examine the witness as his witness in chief or is this supposed to be cross-examination?

JUDGE BENNETT: Well, let's put it this way.

He is entitled to cross-examine your witness. If he chooses to put the witness on as his own witness, then she is his witness.

Are you talking about leading questions or otherwise?

MR. MIDDLETON: Well, leading questions, specifically, since I did call her pursuant to Rule 611(c), and as such I only called her as an adverse witness rather than my own witness and, consequently, I am not vouching for the credibility or anything of the witness.

JUDGE BENNETT: Why don't we approach it this way, and I suggest this to the Respondent.

I may be circumscribing you, but why don't you examine the witness as though she were your own at this point and then we won't have any problem.

MR. MORSE: Fine.

JUDGE BENNETT: I am not indicating that you are not entitled to.

We will avoid it that way.

MR. MORSE: Thank you, Your Honor.

[77] **CROSS-EXAMINATION**

BY MR. MORSE:

Q. Ms. Price, let me ask you, to your recollection how long did this lockout that you referred to in your earlier testimony last?

A. It was from June 1st until the night of the negotiations on June 12th.

Q. May I ask you, please, were there any employees who were members of the bargaining unit made the subject of this proceeding work at any time during this lockout?

A. We had five people cross the picket line.

Q. Did any of the people–

MR. MIDDLETON: Objection. I move to strike as not responsive.

JUDGE BENNETT: I am not sure it was, but the answer may stand.

Ask another question, and perhaps a little more slowly.

BY MR. MORSE:

Q. Ms. Price, let me ask you this; did any of the employees in the bargaining unit work during the lockout or did you lock out all of the employees in the bargaining unit?

A. No. During the lockout we did not work any of the employees in the bargaining unit.

Q. Who worked in the warehouse doing the bargaining unit [78] type work during the lockout?

A. It was our Management and professional people.

Q. Now, let me ask you this:

Based upon your testimony in this matter when would it have been, based on your best recollection, that you had your first conversation with Mr. Lopez about his feelings about the Union?

A. After he had come back to work the first or second week in June.

Q. Now, you also referenced Mr. Ian Knapp in your earlier testimony as being present when you had your conversation with Mr. Goodson; is that correct?

A. With J. R. Blackshire.

Q. Is Mr. Knapp still with CMS?

A. No, he is not.

Q. Where does he reside now, please?

A. I think he is in El Paso, Texas.

JUDGE BENNETT: Do you know when he left, roughly?

THE WITNESS: Somewhere around December 1979.

BY MR. MORSE:

Q. Your testimony earlier was, I believe, that you never gave the Union the reasons for your good-faith doubt prior to your testimony here today; is that right?

A. That's right.

Q. Did the Union ever ask you for any explanation?

[79] A. No.

Q. Just one other point.

Did there come a time during the time frame that we have been discussing when you had an occasion to go out in the warehouse and visit with some of the new employees that we have hired as replacements for the striking employees?

A. Yes. I was out there on a daily basis, but after they had been with us about two or three weeks I went out and specifically talked to some of the individuals.

JUDGE BENNETT: Roughly how many?

THE WITNESS: I think there were like 12 or 13.

JUDGE BENNETT: Out of how many?

THE WITNESS: Out of about 25 at that point.

MR. MORSE: May I ask you this, Ms. Price:

At any time during the discussions that you have just described for us about being with the replacements or in any of the other conversations that you have described for us with striking employees, did you ever openly solicit from them information concerning their support for the Union?

A. No, I did not.

MR. MIDDLETON: Objection. Leading.

JUDGE BENNETT: The objection came in late. I will entertain it, and it's overruled.

BY MR. MORSE:

Q. Ms. Price, during the discussions that you had with [80] the replacement employees that you have just described for us, can you tell us, please, whether or not any of those employees volunteered to you any remarks one way or another about their support for the Union?

A. One man—

MR. MIDDLETON: Objection.

JUDGE BENNETT: Overruled. You may answer.

A. (Continuing) One man did.

BY MR. MORSE:

Q. What was his name, please?

A. David Schneider.

Q. Do you have any record of that?

A. Yes. I have handwritten notes of what I discussed with the employees.

JUDGE BENNETT: What, if anything, did he say?

THE WITNESS: He indicated that he had belonged to unions and he had not belonged to unions, and he, from what he could see, didn't think that this Union represented the people and it just wasn't needed at the Company.

JUDGE BENNETT: All right. Next question.

MR. MORSE: That's all I have, Your Honor, at this time. I reserve the right to recall the witness later in the proceeding.

JUDGE BENNETT: All right. You have that right.

[81] **REDIRECT EXAMINATION**

BY MR. MIDDLETON:

Q. Where does Mr. Knapp work at this time, Ms. Price?

A. I don't know.

Q. You are sure, though, he is in El Paso?

A. No. I said I think he is in El Paso. That's what I had heard.

Q. Who did you hear that from?
A. One of his friends that still works at our Company, I think.
Q. Do you remember who that person is?
A. Dave Kagey, K-a-g-e-y.
Q. Is that somebody on your managerial staff?
A. He is a staff individual.
Q. What position does he hold?
A. At this point, Director, Coulter Marketing, C-o-u-l-t-e-r.
Q. When did you hear that from Mr. Kagey?
A. I can't tell you. Sometime after Ian left.
Q. Would you say it was in 1980 or 1979?
A. I can't tell you.
Q. Now, there were, in fact, 27 employees in the bargaining unit, were there not?
A. Yes, there was.
Q. And how many of those persons did you permanently [82] replace?
A. All of them. Well, all—
Q. All 27?
A. No. The five that have crossed the picket line, we didn't replace.
JUDGE BENNETT: I don't know if I follow you. You said five crossed the picket line?
THE WITNESS: Yes.
JUDGE BENNETT: How about the others?
THE WITNESS: They did not cross the picket line, and we replaced them.
JUDGE BENNETT: Twenty-two, is that a fair statement?
THE WITNESS: Yes.
JUDGE BENNETT: Did not cross the picket line?
THE WITNESS: Correct.
JUDGE BENNETT: And you replaced those 22?

THE WITNESS: Yes.
JUDGE BENNETT: Next question.
BY MR. MIDDLETON:
Q. Now, can you tell us the date upon which you—did you hire replacements for all 22 of these individuals at the same time?
A. Yes, we did.
Q. Can you tell us what the date was?
A. June 25th.
[83] JUDGE BENNETT: And you replaced all 22 on that date?
THE WITNESS: Yes.
BY MR. MIDDLETON:
Q. How many of those persons were still working there on July 20?
A. All but four of them.
Q. Were those positions vacant at that time, those four positions?
A. They really weren't vacant at that time. We—Oh, how do I explain this. We had—No, they were not vacant.
Q. Did you have employees working in those four positions?
A. No.
JUDGE BENNETT: If I follow you correctly, you needed four less people?
THE WITNESS: We hired 29. Four had terminated.
BY MR. MIDDLETON:
Q. So, when you replaced the striking employees you hired additional employees as well?
A. Yes.
Q. And, if I understand your arithmetic, you hired seven additional employees; is that true?
A. Yes.
Q. So, at that time the bargaining unit, as you see it, would have had 34 employees in it?

A. As of July 20th?

[84] Q. Yes.

A. It would have—

JUDGE BENNETT: You can answer that yes or no or you don't know.

THE WITNESS: I don't know.

BY MR. MIDDLETON:

Q. What was the count—when did you last have a correct count of the number of employees in the unit?

A. We always have a correct count. I don't know what you are asking.

Q. What was your last count of the number of people in the unit prior to July 20th, 1979?

A. I think it was 25, plus the five individuals who crossed the line. I don't—

MR. MORSE: Judge, we can—I am sorry. We can clear this up.

JUDGE BENNETT: Go ahead.

MR. MORSE: We have got all of this laid out in an exhibit and we plan to offer it.

I think the General Counsel has exceeded my cross, so to speak, and it really isn't proper anyway.

JUDGE BENNETT: Well, technically speaking, redirect is intended to cover matters brought up on cross.

MR. MIDDLETON: The replacements were the subject of his cross-examination.

[85] MR. MORSE: I would renew my objection.

JUDGE BENNETT: I am inclined to feel that inasmuch as the Respondent has those exhibits which will be coming in that you will have ample opportunity to cross-examine on it.

MR. MIDDLETON: Then I won't pursue it any further in light of his representation.

JUDGE BENNETT: Right, and I will hold him to it.

MR. MIDDLETON: There is one thing I completely forget in reference to General Counsel's Exhibits 3 through 6, the matter involving the shorthand.

Those are the statements that were identified by Ms. Price as being the ones taken immediately after the discussions with the employees.

What I would like to do is to examine her very briefly regarding the comparison between the longhand version and the shorthand version of those documents, if you would permit me do digress for a minute.

JUDGE BENNETT: You could spend three days doing that.

MR. MIDDLETON: It is not that I want to get the details but just for any variation there may be between her translation of the shorthand. Otherwise, I would offer to introduce everything except the shorthand.

JUDGE BENNETT: I will permit you to ask her if there is any variation between the shorthand and the ultimate [86] version thereof.

MR. MIDDLETON: I notice in the longhand version there were some shorthand symbols in the paragraphs themselves, which I would like to—

JUDGE BENNETT: I think you may be getting into Pandora's Box.

If you want to go ahead with it, I will permit it briefly and intervene when I think appropriate.

Specifically, I am permitting you to examine her as to what variations, if any, there are between her shorthand and the ultimate version thereof.

MR. MIDDLETON: As I said, there is one—I may just show it to Your Honor so you will understand what I am referring to.

In the longhand version here there is some shorthand writing.

JUDGE BENNETT: You have shown me GC 3.

MR. MIDDLETON: Correct. Near the top along with the longhand there is some shorthand writing there.

I am interested in pursuing the explanation of the translation of that.

JUDGE BENNETT: You have the advantage over me. It says, "June," dash "19, 10:00 o'clock," and then there is another word after it.

MR. MIDDLETON: Well, I am referring to this [87] (indicating).

JUDGE BENNETT: You are referring to the second paragraph.

I think in all fairness it should be shown to the witness. Why don't we show the witness the shorthand version, and I am indicating the first line of Paragraph 2. Why don't you show her the reproduction thereof and ask her to explain it.

MR. MIDDLETON: This is the only statement. There is no reproduction of General Counsel's 3. It is a one-page document.

JUDGE BENNETT: All right.

BY MR. MIDDLETON:

Q. Would you explain to the Court what the fact . . .

MR. MIDDLETON: If it is agreeable with the parties, since this may become a part of the record.

JUDGE BENNETT: I am going along with you. Ask her.

MR. MIDDLETON: All right.

BY MR. MIDDLETON:

Q. Would you tell us on the first line, the second paragraph, first line, after the two words, "Asked him," there appears a shorthand statement.

Would you tell the Court what this is?

A. "To come in."

JUDGE BENNETT: Would you repeat that?

[88] THE WITNESS: "To come in."

JUDGE BENNETT: To—

THE WITNESS: Come in.

JUDGE BENNETT: To come in?

THE WITNESS: Yes.

JUDGE BENNETT: That's t-w-o, come, c-o-m-e, in, i-n? Is that what you are saying?

THE WITNESS: T-o, to come in.

JUDGE BENNETT: To come in. So, if I follow you correctly, and correct me if I am in error, it is t-o c-o-m-e i-n, three words; correct?

THE WITNESS: Correct.

A. (Continuing) This (indicating) is a period.

BY MR. MIDDLETON:

Q. So, the entire first sentence of Paragraph 1 would read, "Finally he called Jim. Asked him to come in."

A. Correct.

Q. Let me direct your attention to the sentence beginning with a capital S, capital G.

JUDGE BENNETT: Where are you pointing to now?

MR. MIDDLETON: This is the beginning of the second—Let me rephrase that.

There are two sentences that begin with a capital S, capital G, and I am referring to the second such sentence which reads in part, "SG did all the talking. He wanted [89] his," and then there is a shorthand phrase which I would ask her to interpret.

JDUGE BENNETT: Would you interpret that shorthand phrase?

THE WITNESS: "job back."

BY MR. MIDDLETON:

Q. So, it should read, "SG did all the talking. He wanted his job back," period?

A. Correct.

Q. SG refers to whom?

A. Shady Goodson.

Q. Would you take a look—I believe there is at least one other shorthand expression.

JUDGE BENNETT: Would you identify it?

MR. MIDDLETON: All right. The very last phrase on the document above the General Counsel's Exhibit 3 for identification.

THE WITNESS: That is not shorthand. It is supposed to be u-s, us.

BY MR. MIDDLETON:

Q. Would you take a look at the document and tell us if there is any other shorthand contained therein?

A. No, there is not.

Q. Let me now show you what is identified as General Counsel's Exhibit 4(a) through 4(c), I believe it is.

[90] JUDGE BENNETT: Four what?

MR. MIDDLETON: 4(a) through 4(c). 4(c) is the shorthand version, perhaps, of some of the statements.

BY MR. MIDDLETON:

Q. Would you describe to the Court what 4(c) is, identify for the Court?

A. 4(c) are shorthand notes of a conversation with Pete Doucette, and another conversation with Raymond Brunner.

MR. MORSE: May I approach the witness, Your Honor?

JUDGE BENNETT: Please do.

BY MR. MIDDLETON:

Q. Is there anything in the conversation with Pete Doucette . . .

MR. MIDDLETON: Let me rephrase it.

BY MR. MIDDLETON:

Q. The conversation that you have there in shorthand with Pete Doucette, does it refer to any other part of General Counsel's Exhibit 4? Is it a translation, is General

Counsel's Exhibit 4(b) a translation of General Counsel's 4(c), so far as Doucette's part is concerned?

A. Yes, it is.

JUDGE BENNETT: What type of shorthand do you take?

THE WITNESS: Gregg.

JUDGE BENNETT: And you have taken it for how many years?

[91] THE WITNESS: Since high school, I guess.

JUDGE BENNETT: Well, I would refrain from asking you when you got out of high school.

BY MR. MIDDLETON:

Q. Would you read to the Court the first shorthand statement on the top of the page that's identified as General Counsel's Exhibit 4(c)?

A. Okay. It says, "He would rather work than be out on the picket line."

JUDGE BENNETT: And you are reading from your shorthand?

THE WITNESS: Yes.

BY MR. MIDDLETON:

Q. That was the first sentence you just read to us; is that correct?

A. Yes.

Q. Would you identify each sentence, at least, when you come to the end of each sentence?

A. Okay. The next sentence is, "He was used to the work and he liked the people and the work. He had worked for CMS a long time and wanted to work here again."

JUDGE BENNETT: And the record may indicate she is reading from her shorthand.

BY MR. MIDDLETON:

Q. Now, underneath the statement you have just read, the same document, General Counsel's 4, is another state-

ment in [92] which in longhand seems to be headed, "Raymond Brunner"?

A. Correct.

Q. Would you read us the shorthand statement, as you did above?

A. "Came to the decision to retire because he didn't want to work with those Union people again."

JUDGE BENNETT: The record may indicate that she is reading rather fluently or fluidly, as the case may be.

A. (Continuing) The second line is, "He wanted out," comma, "his wife was working and he just didn't want to mess with the Union. He thought the Union protected the wrong employees and that they haven't negotiated very good. He thought the strike was totally unnecessary and was the Union's fault."

BY MR. MIDDLETON:

Q. Now, when did you make those notes?

A. These were after the conversations.

Q. At what point in time did you make the notes regarding Mr. Brunner's statement there?

A. July 12th.

Q. Did Mr. Brunner speak to you on the same day that Mr. Doucette did?

A. No, he did not.

Q. Did you make the original shorthand notes of Mr. Brunner's statement on the same sheet of paper that you made [93] the shorthand notes of Mr. Doucette's conversation?

A. Yes. It was on a yellow pad.

Q. Now, when was it, again, that Mr. Doucette—was that June 28th that you talked to Mr. Doucette?

A. Yes.

Q. And made these notes?

A. Right.

Q. That is so on General Counsel's 4(c) that you made these notes.

When was it that you had the conversation with Mr. Brunner?

A. July 12.

Q. July 12th. Where did that conversation take place?

A. In Tim Martin's office.

Q. Is that one of those that you described for us earlier this morning?

A. Yes, it is.

JUDGE BENNETT: I think we have covered this rather fully.

BY MR. MIDDLETON:

Q. I direct your attention to General Counsel's 5(c) and ask if you can tell the Court what 5(c) is.

A. This is shorthand notes from a conversation, or two conversations that I had with J. R. Blackshire, both on June 27th.

[94] Q. Would you be kind enough to read the contents of General Counsel's Exhibit 5(c) for us and, if you would, indicate when you come to a period?

A. It starts out with the initials ATM. That stands for Allen T. Martin, who was in the room with me.

"J. R. came back after vacation and was absolutely apologetic," period. "He holds nothing against the Company and thought that it was too bad. He returned the key to the cage," period.

JUDGE BENNETT: What does the reference to the key mean?

THE WITNESS: J. R. was responsible for a locked cage where we kept very expensive items such as platinum, stopwatches, this kind of things, and so he came to give us the key so we could get in.

JUDGE BENNETT: All right. Next question.

BY MR. MIDDLETON:

Q. Would you continue reading this for us?

A. Yes. "He refused to walk the picket after a while because he was dissatisfied with the Union. Then he got another job. He came back and asked for his job," period.

JUDGE BENNETT: On this occasion?

THE WITNESS: Yes.

BY MR. MIDDLETON:

Q. "On this occasion" is not in the document, though, is [95] that correct?

A. No. "J. R. was very outspoken against the Union. He expressed considerable animosity about the lack of pay for walking the picket. He was absolutely appalled that they took the Union dues out of his first check. He got no more pay and had to go to the Union hall and pick it up. J. R. indicated that the Union was doing nothing for the employees and he couldn't support a Union like that."

JUDGE BENNETT: From my observation the witness has read the shorthand with what I would say, with reasonable facility.

MR. MIDDLETON: There is still more to go yet.

JUDGE BENNETT: Continue.

THE WITNESS: Okay.

A. (Continuing) The next paragraph says, "Ian and I." This is when we stepped out of the room and into the warehouse and Ian walked up.

BY MR. MIDDLETON:

Q. Before you go into that, the conversation that you just read, this section that you just read to us, was a part of the conversation that occurred in Mr. Martin's office?

A. Correct.

Q. Where just the three of you, Mr. Martin, Mr. Blackshire and yourself were present?

[96] A. Right.

JUDGE BENNETT: Has she finished the shorthand?

MR. MIDDLETON: She is going to the next conversation down here which occurred in the warehouse.

JUDGE BENNETT: Go ahead.

A. (Continuing) "He kept telling us that there wasn't a Union. They have lost all of the support from the employees in the unit. There were many others who wanted to come back and didn't want the Union to represent them anymore. They like him simply didn't want anything to do with that Union. We told him to tell them to come in and sign a sheet of paper like he did if they wanted their job back."

This is a quote. "I have no grudge against anyone except the Union because they didn't do a good job representing the people and getting a contract."

Paragraph. "He didn't work on the picket because he just didn't support the Union. The Union protected the bad employees and those that were good didn't get any help."

Another paragraph. "They," and in parenthesis there is a 5, close parenthesis.

"Never had any problem," in longhand, "getting through the picket line."

The next line says, "Protected the bad employees."

Then there are two longhand sentences at the bottom.

[97] BY MR. MIDDLETON:

Q. Okay. Would you read them for us?

A. It says, "They at no time expressed support for the Union. Shady," dash, "Pete didn't help him."

Q. Now, does that entire document that you just read, are you purporting that those words came from Mr. Blackshire?

A. Yes.

Q. Let me direct your attention now to 5(b), the very last paragraph there.

Would you explain that reference to us to what you just read?

A. It—

Q. Well, maybe you should read that to yourself.

A. "There's a note that says 'They,' parenthesis, five, close parenthesis, 'never had any problem in getting through the picket line.' A couple of lines down there's another note that said, 'protected the bad employees.' The two notes at the very bottom of the page do not mean anything to me at this point."

Q. Now, what does that mean? Who is the "me" that you referred to?

A. Me. In other words, I don't know what significance those notes were.

JUDGE BENNETT: I still say in my observation the witness has read the material shown to her relatively [98] rapidly.

BY MR. MIDDLETON:

Q. Now, finally, we come to General Counsel's Exhibit 6. I direct your attention . . .

MR. MIDDLETON: Just a second. I think we may have completed it.

JUDGE BENNETT: I would hope so.

Based on her prior examination I would say that she reads her shorthand quite well.

BY MR. MIDDLETON:

Q. For the record, I will ask you, is General Counsel's Exhibt 6(c) and General Counsel's Exhibit 4(b), are those two the same document?

A. Yes, they are. I think that's 4(c).

Q. In other words, 4(c) is the same as General Counsel's 6(c)?

A. Correct.

Q. And you have placed them in those order for other reasons; is that correct? I notice that 6(c) refers, of course,

to Mr. Brunner's statement. It is just because you wanted to have a complete document there; is that correct?

A. Right.

MR. MIDDLETON: I pass the witness, Your Honor.

JUDGE BENNETT: We will take a five-minute recess.

(Whereupon, a short recess was taken.)

[99] JUDGE BENNETT: On the record.

Does the Respondent have any cross at this point?

MR. MORSE: I don't believe so, Your Honor. We have nothing further of the witness at this time.

JUDGE BENNETT: All right.

Now, the General Counsel has Exhibits 3 through 7 identified.

MR. MIDDLETON: General Counsel's 2 through—

JUDGE BENNETT: Well, according to my notes 2 is in.

MR. MIDDLETON: I'm sorry.

JUDGE BENNETT: In any event, I will re-affirm it. Exhibit 2 is in.

How about 3?

MR. MIDDLETON: I haven't offered 3 through 7, Your Honor.

JUDGE BENNETT: Do you wish to or otherwise?

MR. MIDDLETON: Let me see what 7 is. I don't recall what 7 is.

JUDGE BENNETT: No. 7 is the June 18 letter.

MR. MIDDLETON: Well, Your Honor, I don't wish to offer either of those at this time.

JUDGE BENNETT: All right. We will leave them in limbo, then.

Respondent has nothing of this witness. You are excused.

[100] (The witness was excused.)

JUDGE BENNETT: Does the General Counsel have anything further?

MR. MIDDLETON: Yes, Your Honor. At this time Counsel for the General Counsel calls Mr. Howard Reed. Whereupon,

HOWARD E. REED

having been first duly sworn, was called as a witness herein and was examined and testified as follows:

JUDGE BENNETT: State your name and address for the record.

THE WITNESS: Howard E. Reed.

JUDGE BENNETT: R-double e-d?

THE WITNESS: Yes, sir. 3527 Mattye Maye, Pasadena, Texas.

DIRECT EXAMINATION

BY MR. MIDDLETON:

Q. Mr. Reed, where are you employed?

A. With Teamsters General Drivers, Warehousemen and Helpers Local Union 968.

Q. How long have you held that position? Well, pardon me. What position do you hold?

A. I am a Business Representative hired by the Local Union.

I'm also an elected official in the Local Union. I am [101] the Recording Secretary.

JUDGE BENNETT: You say the "Local Union."

Where is its office?

THE WITNESS: At 3100 Katy Freeway.

JUDGE BENNETT: In Houston?

THE WITNESS: Houston, Texas, yes, sir.

BY MR. MIDDLETON:

Q. And that's Local 968?

A. Yes, sir.

Q. Have you had any dealings with Curtin Matheson Scientific, Inc., in your capacity as Business Representative for the Union?

A. Yes, I have.

Q. Would you tell us what type of dealings you have had with them in that capacity?

A. I was assigned the Curtin Matheson contract sometime in early May of 1977, and I serviced that contract up until it expired in—I also opened the contract for negotiations to negotiate a new contract, and I was the spokesman for the Union during the course of the negotiations.

Q. Now, when you say when the contract expired, when did it expire?

A. It expired on May 21, 1979.

Q. When did you commence your negotiations for the new contract?

[102] A. The first meeting that we had was on May the 2nd, 1979.

Q. To you knowledge, had the Union been party to any collective bargaining agreements with the Employer Curtin Matheson Scientific prior to the one that most recently expired?

A. Yes, sir.

Q. To your knowledge, had the Union represented that group of employees, that is, the group that's covered by those contracts that you just referred to since it was certified by the Board back in 1970?

A. Yes, sir.

MR. MIDDLETON: I would like to ask Counsel at this time if Counsel for the Employer would be willing to stipulate that the Union is a labor organization within the meaning of the Act?

MR. MORSE: We will be glad to, Your Honor.

JUDGE BENNETT: So stipulated.

MR. MIDDLETON: Thank you.

BY MR. MIDDLETON:

Q. You mentioned that you represented the Union as the chief spokesperson in efforts to negotiate a new contract commencing as of when?

A. On May the 2nd, 1979.

Q. And would you tell the Court where those negotiations began?

[103] A. We had made arrangements for a meeting room at the offices of FMCS at the Federal Building downtown on Rusk Street.

Q. Is that where you conducted the first session?

A. Yes.

Q. Now, did the FMCS participate in that particular session?

A. No, sir.

Q. So, you just used their facility as a convenience; is that correct?

A. That's correct.

Q. Who was present for the Union on that occasion?

A. Myself, Mr. Shady Goodson—

Q. Is that the same Mr. Shady Goodson that we have heard testimony about this morning?

A. Yes, sir, and I believe Mr. Pete Doucette was also present.

Q. Now, was Mr. Doucette the same Mr. Doucette we have heard about here earlier?

A. Yes, sir.

Q. What were their official, if any, capacities or what official capacity, if any, did they appear in at that time?

A. Mr. Goodson was the chief steward on behalf of the employees at CMS and Mr. Doucette was a department steward at CMS, but they were at the negotiations because they had [104] been elected by the membership to serve in that capacity on the negotiation committee.

Q. So, they were members of the employee bargaining and negotiating committee?

A. Yes, sir.

Q. Who was present at that time for the Employer?

A. Ms. Price was present, Mr. Martin was present, Mr. Crocker was present and I believe a gentleman by the name of Knapp was present.

JUDGE BENNETT: If it helps the General Counsel any, I notice that in the Respondent's Answer admits Paragraph 17 and 19 of the Complaint.

MR. MIDDLETON: I didn't have that before me, really. I had better take a look at it.

JUDGE BENNETT: Specifically, that on or about July 20 the Union requested certain information, and in Paragraph 19 the Respondent refused to furnish that information.

MR. MIDDLETON: That is correct.

JUDGE BENNETT: So I see no need of getting into that.

MR. MIDDLETON: That's not what that question was directed to, Your Honor.

JUDGE BENNETT: All right.

MR. MIDDLETON: The conversation that just elicited testimony about—pardon me—the negotiating sessions was the opening negotiating session.

[105] JUDGE BENNETT: If I follow the pleadings correctly, Respondent raises "a good-faith doubt" as to the Union's majority.

MR. MIDDLETON: That is true.

JUDGE BENNETT: And that is the issue before us.

MR. MIDDLETON: That is true.

JUDGE BENNETT: So I think anything other than that is superfluous.

MR. MIDDLETON: That is true.

JUDGE BENNETT: So I think anything other than that is superfluous.

MR. MIDDLETON: Well, I think somewhere in the pleadings there was some reference to a May 8th date as to

the opening, but I think Counsel did admit in the Answer to the Complaint that—

JUDGE BENNETT: Paragraph 12 alleges that on or about May 25 Respondent made its "last and best offer."

MR. MIDDLETON: Paragraph 11 also alleges that on or about May 2nd the Union and Respondent—

JUDGE BENNETT: They commenced negotiations.

MR. MIDDLETON: Correct, and somewhere—Counsel can correct me if I am wrong, but I believe in the Cross-motion for Summary Judgment there is some reference to—

JUDGE BENNETT: Well, never mind the Motions for Summary Judgment.

* * * * *

[109] MR. MIDDLETON: Would you, in that case, be willing to stipulate up until that date the Union was the representative of the majority of the employees in the bargaining unit described in Paragraph 18?

MR. MORSE: May I have a moment?

MR. MIDDLETON: Sure.

MR. MORSE: We will do that if you will also agree, and I think this will really expedite this hearing, if you will also stipulate that at the June 12th bargaining session the Union rejected the Company's May 25th offer.

MR. MIDDLETON: In that case I need to confer with the witness who is now on the stand who happened to be the person who was in charge that day.

JUDGE BENNETT: Well, why don't you do that?

Off the record.

(A one-hour recess was taken.)

JUDGE BENNETT: On the record.

The parties have been conferring during the extended recess, and apparently they have arrived at a stipulation.

MR. MIDDLETON: That's true, Your Honor.

JUDGE BENNETT: All right. Then would you read it for the record.

MR. MORSE: Yes, Your Honor.

On or about May 25th, 1979, Respondent made its last contract offer to the Union. Such contract offer of May 25th, [110] 1979, constituted a full and complete collective bargaining contract, as offered, with respect to the terms and conditions of employment of the employees in the unit described above in Paragraph 8 of the Complaint.

On or about May 29th, 1979, the Union rejected Respondent's last contract offer of May 25th, 1979.

On June 12th, 1979, the Respondent renewed its last contract offer of May 25th, 1979.

On June 12th, the Union again rejected the Respondent's last contract offer of May 25th, 1979.

On or about July 16th, 1979, the Union notified Respondent that the unit employees had voted to accept Respondent's last contract offer of May 25th, 1979.

Since on or about July 19th, 1979, the Union has requested Respondent to execute a written contract embodying the Respondent's last contract offer of May 25th, 1979, described above.

Since on or about July 20th, 1979, Respondent has ·iled and refused to execute a written contract embodying ıe terms of the collective bargaining contract as offered ·ay 25th, 1979, and as described in Paragraph 13 above. ·hat ends the stipulation.

JUDGE BENNETT: Does the Union join in the stipulation?

THE WITNESS: He is presenting the case for us, Your Honor.

[111] JUDGE BENNETT: Do you concur in what the General Counsel says?

THE WITNESS: Yes.

MR. MIDDLETON: Your Honor, may we just say for the record, Paragraph 13 refers to Paragraph 13 of the Complaint as just recited in the stipulation.

JUDGE BENNETT: All right.

MR. MORSE: Your Honor, there is one further part of the stipulation.

On June 12th, 1979, the Union continued as the exclusive collective bargaining representative of the employees in the unit described above in Paragraph 8.

JUDGE BENNETT: Is that agreeable?

MR. MIDDLETON: That's agreeable, Your Honor, to the General Counsel.

JUDGE BENNETT: And the Union Representative says you are authorized to speak for him?

MR. MIDDLETON: I think so.

Would you so agree, Mr. Reed?

THE WITNESS: Yes.

JUDGE BENNETT: All right. That concludes the stipulation.

Do you have anything further of this witness?

MR. MIDDLETON: Very briefly, Your Honor. May I just check something else with Counsel?

* * * * *

[118] MR. MIDDLETON: I would like permission to withdraw the originals and make the appropriate copies.

JUDGE BENNETT: All right.

BY MR. MIDDLETON:

Q. Mr. Reed, can you tell us of your own recollection how many employees were on check-off as of May, the month of May 1979?

A. Twenty-three.

Q. Could you tell us—

A. No. I am sorry. Twenty-four in May.

Q. Twenty-four?

A. Yes.

Q. What was the number for June?

A. The number in June was 23, because there was one employee that terminated during that month, a Mr. Johnny Whittaker.

Q. Was there any such document submitted to the Employer for the month of July?

A. Yes, sir, I believe there was.

Q. Were there any dues received for that period of time?

A. No, sir.

Q. Could you tell the Court why?

A. Because the people had been on strike.

Q. No wages?

A. No wages.

[119] Q. During the period of time that was covered by that request?

A. Yes, sir.

Q. Have you tendered any such request since that time?

A. Yes, we have.

Q. Has there been any change insofar as . . .

MR. MIDDLETON: Well, I will withdraw that.

BY MR. MIDDLETON:

Q. As of July there were no dues submitted?

A. That's correct.

Q. Have there been any submitted since that time?

A. No, sir.

Q. Now, between the dates of June 12, 1979 and July 16, 1979, did you make any efforts to conduct further negotiating sessions with the Employer?

A. Between what dates? I'm sorry.

Q. Let me ask you this way:

After June 12th, 1979, did you make any efforts on behalf of the Union to conduct further negotiations sessions with the Employer?

MR. MORSE: Your Honor, I object to that on the grounds the stipulation is controlling as to any question to which that question could relate, and I just object to getting into that at all.

As far as I can tell, the only question before the [120] Court right now is the good-faith doubt issue.

MR. MIDDLETON: I don't know what part of the stip Counsel is referring to.

I don't think the stip went to the time, conduct regarding the Union between the dates of June 12 and July 16 in so far as bargaining efforts are concerned.

JUDGE BENNETT: If you will be brief, I will permit it.

MR. MIDDLETON: All right.

MR. MORSE: If it helps Counsel—I don't know if he understands what I—

JUDGE BENNETT: Just ask the question.

BY MR. MIDDLETON:

Q. Would you answer that?

A. What were the dates again?

Q. After June 12, 1979, did you do anything on behalf of the Union to conduct further bargaining sessions with the Employer?

A. Yes, I did.

Q. Would you tell us what you did and when?

A. Yes, sir. I called Mr. Johnson with the Federal Mediation and Conciliation Service and I requested that he contact the Company.

Q. When did you do that?

A. I believe it was on the 13th.

* * * * *

[122] Number one, Mr. Johnson cannot testify without the permission of his superior.

If you want to ask him what he did—

BY MR. MIDDLETON:

Q. What did you do after that time?

A. After June 12th?

Q. Well, after you contacted—

JUDGE BENNETT: You heard something from Mr. Johnson. What did you do next?

THE WITNESS: What I did next was, of course, I advised the people, the folks on the picket line—

JUDGE BENNETT: What did you do with respect to the Employer, if anything?

THE WITNESS: I did not contact the Employer.

BY MR. MIDDLETON:

Q. Did you make any further efforts after that conversation with Mr. Johnson in so far as the bargaining sessions were concerned?

A. Yes, sir. Again, I called FMCS again and requested that they set up a meeting.

Q. When was that next call placed?

A. That was placed on the 15th, I believe. Somewhere near the 15th?

Q. Of what month?

A. Of June.

[123] Q. Did you have any further such efforts after that date where you contacted FMCS and requested that they arrange further negotiating sessions between the parties?

A. No, sir, I did not, because—

JUDGE BENNETT: You have answered the question.

THE WITNESS: Well, I—

JUDGE BENNETT: You have answered the question. Next question.

BY MR. MIDDLETON:

Q. Now, did any of those contacts with Mr. Johnson or FMCS result in any further negotiating sessions between the parties?

A. No.

Q. Now, after your last effort with FMCS to arrange meetings with the Employer for negotiating sessions, did you do anything else?

A. No, sir. Just advised the people that the Company wouldn't meet.

Q. And why did you advise them that the Employer wouldn't meet at that time?

A. Because they knew I was attempting to get the Company to meet through FMCS.

MR. MORSE: Your Honor, I object to this entire line of questioning.

JUDGE BENNETT: I will sustain the objection.

* * * * *

[142] MR. MIDDLETON: But that is with the exception of 9(e)?

JUDGE BENNETT: Right. We now have R 6 through 9; correct?

MR. MORSE: Yes, Your Honor.

JUDGE BENNETT: Proceed.

Next question.

BY MR. MORSE:

Q. Ms. Price, have you had an opportunity to review Respondent's Exhibits 6(a), (b) and (c), Respondent's Exhibit 7, Respondent's Exhibits 8(a), (b) and (c) and Respondent's Exhibits 9(a), (b) and (c)?

A. Yes, I have.

Q. Can you identify them for us, please?

A. Those are the documents that I discussed earlier this morning as General Counsel's Exhibits 3 through 6.

MR. MORSE: On the basis of her former testimony we offer, Your Honor, Respondent's Exhibits 6(a), (b) and (c), 7, 8(a), (b) and (c) and 9(a), (b) and (c).

JUDGE BENNETT: You say these are the documents you referred to under examination by the General Counsel?

THE WITNESS: Yes, sir.

JUDGE BENNETT: Any objection?

MR. MIDDLETON: I have a couple of things.

One, I don't know exactly which of those is which of [143] the General Counsel's, at least which were identified as General Counsel's 2 or whatever.

JUDGE BENNETT: Does it make any difference?

MR. MIDDLETON: Yes.

JUDGE BENNETT: She said these are the ones that she saw, that you showed her.

MR. MIDDLETON: Right. In my records I would like to know which ones they are, because further I have an objection to receipt of the documents on the grounds of hearsay.

JUDGE BENNETT: What you are saying is, if I follow you correctly, and correct me if I am in error, Respondent's Counsel is using different numbers from the ones you were using.

MR. MIDDLETON: And I would like to be able to cross-reference them first.

JUDGE BENNETT: Personally, I think you are wasting a lot of time.

I will give you about one minutes [*sic*] to do it.

MR. MIDDLETON: I am willing to do it after the—

JUDGE BENNETT: No, no. Do it now. I think you are wasting a lot of time, and I will repeat that.

Show her the original exhibits and ask her if those are the same ones. You can do it in 30 seconds.

MR. MIDDLETON: Your Honor, that's not what I am really seeking. I realize he has identified them as the same ones.

[144] I have got a General Counsel's 3. I don't know what that refers to in Respondent's exhibit or how Respondent's exhibit relates to my 3, which of those is which.

MR. MORSE: I am having trouble understanding why not. I have offered him copies of the exhibits and all he has to do is compare them, Your Honor.

JUDGE BENNETT: I couldn't agree with you more. I think he is wasting time.

MR. MIDDLETON: I have got the—

JUDGE BENNETT: Would you show her the exhibits?

MR. MIDDLETON: Would you tell me which exhibit General Counsel 3 is?

JUDGE BENNETT: And, incidentally, show her both. Don't confuse the witness.

MR. MIDDLETON: I only have the ones that I had marked, Your Honor. Those are the only ones that I have in my possession.

JUDGE BENNETT: And then show her Respondent's exhibits and let her choose or reject.

MR. MIDDLETON: Okay. If you would just match them up for me, I would appreciate it.

THE WITNESS: General Counsel's 3 is Respondent's 7.

General Counsel's 4(a), (b) and (c) is Respondent's 8(a), (b) and (c).

General Counsel's 5(a), (b) and (c) is Respondent's [145] 6(a), (b) and (c).

And General Counsel's 6(a), (b) and (c) is Respondent's 9(a), (b) and (c).

JUDGE BENNETT: I would assume that's a very definitive and responsive answer.

MR. MIDDLETON: Yes, I think so, Your Honor. Now, I am prepared to state my objections.

I object to the truth of the matter asserted in Respondent's 7.

JUDGE BENNETT: Coming back to the exhibits, you identified and offered it and I recieved it.

MR. MIDDLETON: No, I didn't offer them, Your Honor. I only identified them.

JUDGE BENNETT: Correct.

MR. MIDDLETON: I would object to the receipt of those on the grounds they are hearsay, with the exception of Responden.'s 8(a)—well, let me withdraw that.

Actually, I think I know what the answer is but I would ask to take the witness briefly on voir dire with respect to a couple of those.

JUDGE BENNETT: I will permit it.

* * * * *

[149] **DIRECT EXAMINATION (RESUMED)**

BY MR. MORSE:

Q. Ms. Price, let me show you what has been marked now as Respondent's Exhibits 10(a) and 10(b) and ask you if you can identify them for us, please?

A. Yes. This is a letter that Clint Waller sent to me informing me that he had notified the Teamsters that he no longer wanted to be a member.

Q. Would you please refer to the Exhibit by its number?

A. Okay. The letter to me from Clint Waller is 10(a). A copy of the letter that he sent to the Union is 10(b).

Q. Where did you receive 10(b), please?

A. Attached to 10(a).

Q. You received it in the mail?

A. Right.

MR. MORSE: Your Honor, at this time we have afforded Government Counsel a copy and we would offer Respondent's 10(a) and 10(b).

MR. MIDDLETON: I believe my objection is the same, Your Honor. Let me make sure I am looking at the same documents.

May I ask just a couple of questions on voir dire?

JUDGE BENNETT: Go ahead.

[150] **VOIR DIRE EXAMINATION**

BY MR. MIDDLETON:

Q. Are these documents – You say you received them through the mail; is that correct?

A. Right.

Q. Have they been maintained in your official business records since that date?

A. Yes, they have.

Q. The same records you testified to earlier?

A. Right.

MR. MIDDLETON: No objections, Your Honor.

JUDGE BENNETT: I will receive them.

(The documents referred to, having been previously marked for identification as Respondent's Exhibits 10(a) and 10(b) were received in evidence.)

DIRECT EXAMINATION (RESUMED)

BY MR. MORSE:

Q. What is the date, Ms. Price, stamped on Respondent's 10(a) indicating the date that your company received that letter?

A. We received it in our department on July 23rd.

JUDGE BENNETT: It came to your immediate attention?

[151] THE WITNESS: Yes.

BY MR. MORSE:

Q. May I ask you, please, whether or not you have had any previous conversations with Mr. Waller concerning what you have described as Respondent's 10(a)?

A. Yes, we did, over the phone. About a week prior to this he told us –

MR. MIDDLETON: Objection.

JUDGE BENNETT: Just a minute. Do you know his telephone voice?

THE WITNESS: Yes.

JUDGE BENNETT: You recognized it?

THE WITNESS: Yes.

JUDGE BENNETT: All right. I will take it.

A. (Continuing) He indicated that – He called to tell us that he had –

JUDGE BENNETT: This is Mr. Waller talking with you, or otherwise?

THE WITNESS: It was Mr. Waller talking to Jim Crocker.

JUDGE BENNETT: Well, how did you identify it was him?

THE WITNESS: I was informed of the conversation immediately after it.

MR. MIDDLETON: Objection, Your Honor.

JUDGE BENNETT: By Mr. Waller?

THE WITNESS: By Mr. Crocker.

[152] JUDGE BENNETT: Excuse me. Mr. Crocker.

MR. MIDDLETON: I would object again, Your Honor.

JUDGE BENNETT: We have the issue of Employer good-faith doubt.

I will receive it as evidence of what was reported to her.

BY MR. MORSE:

Q. When did you receive a report from Mr. Crocker [*sic*] he had had a telephone conversation with Mr. Waller?

A. Approximately one week prior to this letter.

JUDGE BENNETT: How long after the conversation, if you know?

THE WITNESS: Jim came immediately up to my office to let me know that Clint had called.

JUDGE BENNETT: That day?

THE WITNESS: Yes, sir.

BY MR. MORSE:

Q. What was the substance of his report to you?

A. He came to me to tell me that Clint had called to say that he had called the Union and told them he didn't want to be a member, and the reason Jim came immediately to my office was—

MR. MIDDLETON: Objection.

JUDGE BENNETT: Wait a minute. Don't tell us the reason. Tell us what he said, if anything.

[153] THE WITNESS: Okay. He came up and told me that Clint had called saying that he had called the Union and told them that he was withdrawing his membership from the Union.

JUDGE BENNETT: Then you got the letter?

THE WITNESS: And we got the letter about a week later.

BY MR. MORSE:

Q. Ms. Price, let me show you what has been marked as Respondent's Exhibit 11(a) and 11(b), please, and ask you if you can identify them?

A. Yes. No. 11(a) is a letter to Anna Jimenez who was one of our warehouse workers—

JUDGE BENNETT: Spell that for the Reporter, please.

THE WITNESS: J-i-m-e-n-e-z.

A. (Continuing) And 11(b) was an attachment that we sent to Anna Jimenez, along with my letter 11(a).

MR. MORSE: Your Honor, we offer Respondent's Exhibits 11(a) and (b).

MR. MIDDLETON: I want to see that.

MR. MORSE: It's in your folder.

JUDGE BENNETT: Your official title is Director, dash, Personnel?

THE WITNESS: It was then. We since changed the department name to Employee Relations, so it's Director of Employee Relations.

MR. MIDDLETON: With respect to 11(a), Your Honor, I [154] have no objection, but I do object with regard to 11(b).

JUDGE BENNETT: I will receive 11(a) and I will receive 11(b) as a form which the Employer sent to Anna Jimenez.

(The documents referred to, having been previously marked for identification as Respondent's Exhibits Nos. 11(a) and 11(b) were received in evidence.)

BY MR. MORSE:

Q. Ms. Price, I ask you, was Miss Jimenez employed at Curtin Matheson in the bargaining unit prior to the commencement of the strike in this case?

A. Yes, she was.

Q. And did you ever thereafter see her walking the picket line as the strike commenced?

A. We did a couple of—

MR. MIDDLETON: Objection.

JUDGE BENNETT: What is the question? Read it back, Mr. Reporter.

(The question was read.)

JUDGE BENNETT: I will take it.

A. (Continuing) We did on a couple of occasions at the beginning of the lockout.

[155] BY MR. MORSE:

Q. Thereafter, let me ask you, did you receive any report from employees as to what had become of Miss Jimenez?

A. Yes. I heard from a number of—

MR. MIDDLETON: Objection.

JUDGE BENNETT: She may answer.

A. (Continuing) I heard from a number of employees that Anna had found a job at the Post Office.

BY MR. MORSE:

Q. Can you tell us when you began to receive those reports, please?

A. It was approximately a week and a half to two weeks after the lockout had commenced.

Q. Can you tell me how you can pin point it at that time?

A. Well, for two reasons. I remember that she stopped appearing on the picket line. I noticed that. And secondly—

JUDGE BENNETT: You personally observed that?

THE WITNESS: Yes, sir. I was out there all of the time.

A. (Continuing) Secondly, I was surprised that she could get a job with the Post Office that quickly.

BY MR. MORSE:

Q. Let me show you what has been marked as Respondent's Exhibits 12(a) through 12(k), and ask you if you can identify [156] those for us, please?

A. Yes, 12(a) through 12(k) are letters of resignation from individuals who were members of the bargaining unit prior to the strike.

JUDGE BENNETT: You said resignation. May I see it?

The Board in some cases has made a distinction between resignation from a union shop contract and union membership.

I note that these talk about resigning employment.

If the General Counsel wishes to be heard, I will be glad to hear it.

MR. MIDDLETON: Your Honor—

JUDGE BENNETT: I think Texas is, if I am not mistaken, a right-to-work state.

MR. MORSE: That's correct.

MR. MIDDLETON: That's correct. I am just beginning to—this is 12. It seems that all of them have basically the same statement.

JUDGE BENNETT: Correct.

MR. MIDDLETON: I don't think it has any probative value, Your Honor, so far as the issue in this case is concerned because, one, there is no reference to the membership in the Union whatsoever by these statements, and, two, the resignation of employment does not per se indicate any hostility toward the Union.

[157] JUDGE BENNETT: This may be a stupid question, but if someone resigns employment how can they be a member of the union at that employer?

MR. MIDDLETON: He need not be one at that employer, but what I am saying the mere resignation from employment does not per se or ipso facto establish union animus on the part of that employee.

JUDGE BENNETT: Now, we are talking about good-faith doubt on the part of the Employer.

MR. MIDDLETON: Okay. In that case, under the Board law the replacements are presumed to support the union in the same ratio as did the former employees.

JUDGE BENNETT: Just by pure coincidence, and really I was reading a case from the Fifth Circuit coming down on the plane yesterday.

People's Gas System, Inc. versus NLRB, 104 LRRM 2224, decided May 2. My God, again my birthday.

They found an 8(a)(5) in the case, but they refused to issue a bargaining order.

Excuse me. I said the Fifth Circuit. It was a D.C. Circuit, which has plenary jurisdiction, but it was a case down in this District, what I would call the Fifth Circuit area, a Florida case.

MR. MIDDLETON: Of course, my position is, Your Honor, we are bound by the Board law, irrespective of the Circuit [158] decisions, do control in this matter.

JUDGE BENNETT: I quite agree with you.

One of my colleagues, now retired, said he wrote the Fifth Circuit rather than the Board, and in as much as I intend to retire at the end of this year I don't know where that leaves me, but you had an objection to the admission of R 12(a) through (k), was it?

MR. MIDDLETON: Through 12(k). That is one of my objections. Otherwise, I would like to take the witness on voir dire regarding each of those.

JUDGE BENNETT: All right. I will permit that.

VOIR DIRE EXAMINATION

BY MR. MIDDLETON:

Q. Are you familiar with the execution of Respondent's 12(a) through 12(k)?

A. I am.

Q. Were you present at the time they were executed?

A. I think I was on all of them.

Q. Well, let's do this, let's just take each one.

JUDGE BENNETT: Are you saying that the people who signed those signed them in your presence?

THE WITNESS: I think on all of them, yes, sir. I would have to look at the names.

MR. MORSE: If I may inject here, Your Honor, I think this is an entirely irrelevant inquiry.

[159] If they are business records, it doesn't matter whether or not the custodian of the business records has

personal knowledge so long as somebody in the Company had personal knowledge.

I just feel like it is a waste of time.

JUDGE BENNETT: I will permit a brief inquiry on this.

BY MR. MIDDLETON:

Q. Now, with respect to Respondent's 12(a), Mr. Shady Goodson, did you actually see Mr. Goodson execute this document on July 19th?

A. I did.

Q. Where were you at that time?

A. Jim Crocker's office.

Q. Who was present?

A. Jim Crocker, myself and Shady.

JUDGE BENNETT: The General Counsel is running the risk of verifying all of this. I assume you are aware of that.

MR. MIDDLETON: That's correct. Let me say I don't necessarily agree that this verifies this. At least it helps to show the circumstances surrounding the–

JUDGE BENNETT: She is testifying she saw the man sign it in front of her.

MR. MIDDLETON: Well, this is true.

JUDGE BENNETT: All right. Next question.

[160] BY MR. MIDDLETON:

Q. Now, I notice from reviewing these documents just briefly here that they are all apparently prepared on the same typewriter.

A. That's correct.

Q. Do you know whose typewriter that was?

A. It was one in our department.

Q. Do you know who did the actual typing?

A. One of the secretaries.

Q. It also appears that each of those documents were signed with the same type of pen. As a matter of fact, the very same pen?

A. I doubt that seriously.

Q. Were these documents prepared by the Employer for employees other than those employees included in Respondent's 12(a) through 12(k)?

A. Your question is what?

Q. Were similar documents prepared for employees in the bargaining unit other than those included in 12(a) through 12(k)?

A. I do not think so.

Q. Why were these prepared – First of all, were these all prepared at the same time?

A. No, they were not.

Q. Were you present when each one of them was prepared?

[161] A. Do you mean typed?

Q. Yes.

A. I can't say that I was.

Q. So, you don't really know of your own knowledge when the documents themselves were actually prepared; is that true?

A. I do not know when they were typed.

Q. That's what I mean.

JUDGE BENNETT: You saw them signed?

THE WITNESS: Most of them, yes. I don't know exactly who is in here.

BY MR. MIDDLETON:

Q. Let's do this: You said you saw Mr. Shady Goodson?

A. Yes.

Q. Did you see Robbie Madison?

A. Yes.

Q. Did you see Wilfred Green?

A. Yes.

Q. Did you see John Thompson?

A. Yes.

Q. Joanne Stephens?

A. Yes.

Q. Joe Doby?

A. Yes.

Q. J. R. Blackshire?

A. Yes.

[162] Q. Pete Doucette?

A. Yes.

Q. Anna Jimenez?

A. No.

Q. Clint Waller?

A. I can't remember if I was there when he signed this or not.

Q. How about Pablo Sanchez?

A. No, I did not.

JUDGE BENNETT: With respect to the few that you did not see signed, how did they come to your attention?

THE WITNESS: Anna Jimenez mailed her's [*sic*] in. Clint Waller, I can't remember because I saw him on two or three occasions, and I don't know if this was one of them, and on Pablo Sanchez, I think I was out of town that day and my manager of compensation handled that.

JUDGE BENNETT: As far as the others are concerned you personally saw them?

THE WITNESS: Yes, sir.

MR. MORSE: May I ask a couple of more questions, Your Honor?

JUDGE BENNETT. Go ahead.

DIRECT EXAMINATION (RESUMED)

BY MR. MORSE:

Q. Ms. Price, with respect to what has been marked as [163] as Respondent's Exhibits 12(a) through 12(k), can you state whether or not these documents were made in the ordinary course of business at Curtin Matheson?

A. They were.

Q. Were they made at or near the time of the events depicted there?

A. Yes, they were.

Q. Based on personal knowledge of either yourself or another employee at Curtin Matheson?

A. Yes.

Q. And have they been maintained as part of the business records of the Company since that day?

A. Yes.

Q. Are you the custodian of such records?

A. Yes.

MR. MORSE: We offer Respondent's Exhibits 12(a) through 12(k) again, Your Honor.

MR. MIDDLETON: Objection, Your Honor.

JUDGE BENNETT: I will receive them.

(The documents referred to, having been previously marked for identification as Respondent's Exhibits 12(a) through 12(k) were received in evidence.)

[164] BY MR. MORSE:

Q. Ms. Price, you testified earlier in your remarks to us today about visiting with some of the replacement employees hired at the Company after the lockout was over.

A. Yes.

Q. And you also testified that you had conversation with, among others, a Mr. David Schneider; is that correct?

A. Yes.

Q. Let me show you what has been marked as Respondent's Exhibit 13(a) through 13(f) and ask you if you can identify that for us, please?

A. These are some handwritten notes I took regarding the conversations I had with those employees.

Q. Do the notes relating to your conversation with David Schneider appear on Respondent's Exhibit 13?

A. Yes, 13(e).

Q. Were those notes taken at the time—were those notes made at the time when your recollection of exactly what was said by Mr. Schneider was fresh in your mind?

A. Yes. Normally I talk with the employee and then immediately turn around and walk down an aisle and write the note out.

Q. I take it from your general remarks this morning you can generally recall what he testified to; is that right?

A. Yes.

[165] Q. Specifically, though, as to exactly what he said would Respondent's Exhibit 13 be the most accurate information of that?

A. Yes.

MR. MIDDLETON: Objection.

JUDGE BENNETT: Wait a minute. The answer may be stricken.

Do you have an objection?

MR. MIDDLETON: Yes, sir, leading.

MR. MORSE: Your Honor, I believe I am permitted to lead in order to establish a predicate for the admission into evidence.

I thought we could get it in, but if we are going to have to go through the technical aspects of—

JUDGE BENNETT: I will permit it.

Will you state your question again.

BY MR. MORSE:

Q. Let me ask you this: You testified earlier that you generally recall what Mr. Schneider told you; is that correct?

A. Right.

Q. Would your notes, as reflected on Respondent's Exhibit 14, made shortly after the conversation in question, reflect exactly what was said at that time?

A. Exhibit 13, yes.

[166] MR. MORSE: Thank you. We offer those.

MR. MIDDLETON: Objection, again, Your Honor, hearsay, irrelevant and immaterial.

JUDGE BENNETT: I will receive them.

(The documents referred to. [*sic*] having been previously marked for identification as Respondent's Exhibits 13(a) through 13(f) were received in evidence.)

BY MR. MORSE:

Q. Let me show you now what has been marked Respondent's Exhibit 14, and ask you if you can identify that?

JUDGE BENNETT: Let me ask you this: Do you have many more of these?

MR. MORSE: Your Honor, I have three more.

JUDGE BENNETT: All right. I will be patient.

MR. MORSE: I am trying to hurry.

JUDGE BENNETT: You are showing her R14?

MR. MORSE: Yes.

BY MR. MORSE:

Q. Can you identify that for us, please?

A. It's a request from Shady Goodson for unconditional reinstatement to his job at CMS.

Q. Was that signed in your presence?

[167] A. Yes, it was.

Q. It has been a part of the business records of the Company?

A. Yes.

MR. MORSE: I offer Respondent's Exhibit 14, Your Honor.

JUDGE BENNETT: Let me see it.

He signed this in your presence?

THE WITNESS: Yes, he did.

JUDGE BENNETT: What were the circumstances of it?

THE WITNESS: He came into Jim Crocker's office and I was already there, and indicated that he wanted to come back to work at CMS. He signed that in front of us, and we gave him a copy of it.

JUDGE BENNETT: I will receive it.

(The document referred to, having been previously marked for identification as Respondent's Exhibit 14 was received in evidence.)

BY MR. MORSE:

Q. For clarification of the record, Ms. Price, were documents similar to what has been offered and received as Respondent's 14 extended to and signed by all returning strikers who requested reinstatement?

[168] MR. MIDDLETON: Objection.

JUDGE BENNETT: There is an objection. How many strikers are we talking about?

MR. MORSE: The ones that come back and requested reinstatement.

JUDGE BENNETT: I said how many, if you know?

MR. MORSE: Your Honor, I am going to say roughly 20.

JUDGE BENNETT: Do you know how many?

THE WITNESS: How many returning strikers or how many—

MR. MORSE: Returning strikers requesting reinstatement. Let me withdraw the question, Your Honor.

JUDGE BENNETT: Go ahead.

BY MR. MORSE:

Q. What was the practice of the Company, Ms. Price, if an employee who had been on strike during this period we have been discussing, came to the Company and said, "I would like at this time to be reinstated"?

A. We would give them the original of this document.

JUDGE BENNETT: Are you talking about R 14?

THE WITNESS: Yes, sir.

A. (Continuing) And ask them to sign it in my presence and either Jim Crocker or Tim Martin's presence.

I would then sign it and we would make a copy of it for the employee, give it to him.

We would then go through the computer run with him to [169] make sure we had his most recent address and most recent phone number.

BY MR. MORSE:

Q. Let me show you what has been marked as Respondent's Exhibit 15(a) and 15(b) and ask you if you can identify that, please?

A. Yes. These are organizational charts that are prepared in my department at the end of each month.

Exhibit 15(a) is for the International Division as of May 31, '79, and 15(b) is for the Houston branch as of May 31, '79.

Q. For the benefit of the Court, would you please tell us whether or not you can tell from Respondent's Exhibit 15(a) and (b) how many employees there were in the bargaining unit and on the Company's payroll as of May 31, 1979?

A. Yes. You can look under the warehouse section and see in the International Division that there were four people. The lead man, Shady Goodson, Steele, Jones and Waller, and in the Houston branch, under the warehouse, there were 23 people, for a total of 27.

Q. I take it from your testimony previously that the Company commenced the lockout of the employees as of June 1st, 1979; is that correct?

A. That is correct.

Q. And thereafter the lockout was terminated on June 12th, [170] 1979; is that correct?

A. Yes.

Q. Was the Union picketing the Company during the period of the lockout?

A. Yes.

Q. Did the Union continue to picket the Company subsequent to the lockout's termination?

A. Yes.

Q. Do you recall when you received official notice from the Union that they were terminating the strike?

A. It was July 16, in their telegram.

Q. Let me show you what has been marked as . . .

MR. MORSE: Pardon me, Your Honor. If I haven't offered it, I now offer Respondent's Exhibit 15(a) and (b).

MR. MIDDLETON: I don't have any objection, Your Honor.

JUDGE BENNETT: I will receive it.

(The documents referred to, having been previously marked for identification as Respondent's Exhibits 15(a) and 15(b) were received in evidence.)

[175] BY MR. MORSE:

Q. Ms. Price, can you tell us whether or not the employees you hired to replace the striking employees were considered permanent replacements with the Company?

A. Yes, they were and they were told that.

MR. MORSE: Pass the witness, Your Honor.

CROSS-EXAMINATION

BY MR. MIDDLETON:

Q. In response to your Counsel's last question, did you interview each of those replacements personally?

A. Yes, I did.

Q. And when you say they were considered as permanent replacements, whose consideration are you referring to?

A. Well, the Company's consideration.

Q. What is your testimony that they were considered permanent replacements based upon?

A. Because they were permanent replacements, and we told them that.

JUDGE BENNETT: You say they were told that?

THE WITNESS: Yes, they were.

JUDGE BENNETT: By you?

THE WITNESS: Yes.

* * * * *

[231] JIM CROCKER

having been first duly sworn, was called as a witness herein and was examined and testified as follows:

JUDGE BENNETT: State your name and address for the record.

THE WITNESS: My name is Jim Crocker. My address is 9806 Halliford, Houston, Texas.

JUDGE BENNETT: Jim Crocker?

THE WITNESS: Yes, sir.

DIRECT EXAMINATION

BY MR. MORSE:

Q. Mr. Crocker, how are you employed?

A. I am employed by Curtin Matheson Scientific as the Operations Manager of the International Division.

Q. I will ask you to direct your attention to June 19 of [232] 1979, and ask you how you were employed, please?

A. I was employed as the same, Operations Manager of the International Division.

Q. Directing your attention to that day, may I ask you whether you had an occasion to have any conversation with Mr. Shady Goodson on that date?

A. Yes, sir, I did have.

Q. Could you tell us, the circumstances under which that conversation occurred?

A. Yes. Shady had talked with our Sales Manager of International on the phone several times.

JUDGE BENNETT: Let's talk about you and Shady.

THE WITNESS: All right. Shady came in to the office and met with Ms. Price, our Personnel Director and myself, in a meeting which he asked for, and at that time we just more or less let Shady do his talking.

MR. MIDDLETON: I'm going to—

BY MR. MORSE:

Q. May I ask you, please, to tell us—

JUDGE BENNETT: Just a moment. We may have an objection.

MR. MIDDLETON: As to what he had asked for, Your Honor. I move to strike it. There is no evidence in the record to show this witness is competent to testify to that.

I think it assumes a fact not in evidence.

[233] JUDGE BENNETT: I will overrule it.

BY MR. MORSE:

Q. Mr. Crocker, could I ask you to search your recollection and testify, as best you can, as to exactly what Mr. Goodson told you and Ms. Price during this meeting?

A. Yes. Shady opened up the conversation by saying that he was there on his own, and he did not represent the people in the Union nor the Union itself.

Shady further stated that he was more or less frustrated with the whole situation, he was getting very little support from the Union.

He was having to put together the people that formed the strike line. He was not getting much support on that.

He was having to use the same people over and over, and that he felt like it was more or less—I will put this in his exact words, if I can.

He didn't feel like he was getting anything for his membership dues.

JUDGE BENNETT: Now, you were there and Shady was there?

THE WITNESS: And Ms. Price was there.

JUDGE BENNETT: The three of you?
THE WITNESS: That's correct.
JUDGE BENNETT: All right.
A. (Continuing) He further went on to say that he did [234] not feel like the membership was behind this strike, and that it was more a vendetta type thing on Howard's part than what it was to membership. He felt like it should have been over with a long time ago.
BY MR. MORSE:
Q. May I ask you, please, when he said the word "Howard," to whom did you understand him to refer?
A. The business agent.
MR. MIDDLETON: Objection.
JUDGE BENNETT: Overruled.
A. (Continuing) He understood that—I understood that to be the business agent for the Union, Mr. Howard Reed.
BY MR. MORSE:
Q. Can you tell us whether or not you recall Mr. Goodson specifically saying anything else in the meeting?
A. He mentioned . . . .
Q. Is that basically what you recall?
A. That's basically it.
Q. After the meeting, could I ask you whether or not you and Ms. Price had occasion to prepare a memorandum of exactly what was said?
A. We did sit down at my desk and take some notes covering the conversation.
Q. Let me show you what has been marked as Respondent's 7, and ask you if you can identify that, please?
[235] A. Yes. This is the note we took.
MR. MORSE: Pass the witness.
JUDGE BENNETT: May I see that?
Excuse me. I have to get out my other glasses.
Do you know who wrote this?

THE WITNESS: Yes, I do. Ms. Price wrote that.
JUDGE BENNETT: In your presence?
THE WITNESS: In my presence.
JUDGE BENNETT: Did you read it?
THE WITNESS: Yes, sir. At the time, I certainly did.
JUDGE BENNETT: All right. Next question.

CROSS-EXAMINATION

BY MR. MIDDLETON:
Q. How long did this meeting last, Mr. Crocker, where you met with Mr. Goodson in the presence of Ms. Price?
A. I would say approximately 30 minutes.
Q. Who did the talking during that meeting?
A. Shady did almost all of it.
JUDGE BENNETT: When you say Shady—
THE WITNESS: Mr. Goodson.
BY MR. MIDDLETON:
Q. Did you do any talking during that meeting?
A. I exchanged cordials with him at the outset of the meeting.
Q. What do you mean by that?
[236] A. Hello, how are you, this type of thing.
Q. Is that the only thing you uttered during that meeting?
A. I don't recall anything. At the end of it I wished him luck.
JUDGE BENNETT: How did you happen to do that?
THE WITNESS: You know, "It's nice to see you again," this type of thing.
BY MR. MIDDLETON:
Q. Except for your greetings and your goodbye, you had no comments to him during that meeting; is that your testimony?

A. Yes, sir. There was very little said on our part whatsoever.

Q. Did Ms. Price have anything to say to him during that meeting?

A. Very, very little.

Q. Do you recall her saying anything to him during that meeting?

A. More or less. I guess, "Why are we here," this type of thing.

Q. Well, can you recall that she actually asked, "Why are we here"?

A. No, I can't recall the exact words, no.

Q. Do you remember her saying anything, in fact, during that meeting?

[237] A. Not that I could testify on, no.

Q. So, all you can testify to is that Mr. Goodson did all of the talking and you and Ms. Price listened, except for the greetings and the goodbye?

A. Basically, yes, that's correct.

Q. When you say, "Basically," are you telling me there were some other things that were actually said that you are not telling us about by you or by Ms. Price?

A. I will tell you very precisely what I remember, and I don't recall anything else.

JUDGE BENNETT: You do precisely that, whatever you can remember.

BY MR. MIDDLETON:

Q. Did you understand the Judge?

A. Yes, sir, certainly.

Q. Now, would you go ahead and tell us what you remember?

A. I really don't remember anything. I don't remember the specifics.

JUDGE BENNETT: Are you saying you don't remember anything other than what you have already testified to us?

THE WITNESS: That's correct.

JUDGE BENNETT: All right. Next question.

BY MR. MIDDLETON:

Q. If I understood your testimony you say that you read Respondent's Exhibit 7 after it was prepared; is that correct?

[238] A. Yes, sir. At the time it was prepared I did go over it with her.

Q. Did you read each line, I mean each sentence in the statement after it was prepared?

A. We went over it very thoroughly back when it was prepared.

Q. In other words, you read it in its entirety; is that right?

A. Yes, sir.

Q. At that time?

A. Yes, sir.

Q. Do you understand shorthand?

A. No, I do not understand shorthand.

Q. Was there any shorthand contained in that document, that you recall?

A. No, sir.

Q. There was or there wasn't?

A. The notes that we put together at that time, I don't recall.

Q. It could have had shorthand in it but you don't recall it?

A. I don't recall seeing any shorthand.

Q. Do you actualy recall reading that document in its entirety?

A. Yes, I do.

[239] Q. Do you recall when you read it in its entirety there were no shorthand notes in there?

A. I don't recall seeing shorthand. If there was some—I am not saying there was not—I am saying I don't recall it.

Q. Let me ask you to take a look at the document here, and I am directing your attention to the second paragraph beginning with the word "Finally," and ask you if the last phrases in that sentence which are in shorthand mean anything to you?

A. No, sir, they do not.

Q. Do you recall them being in there at the time you read the document?

A. No, sir, I do not.

Q. I direct your attention to—

JUDGE BENNETT: You did read the document?

THE WITNESS: Yes, we did go over it.

BY MR. MIDDLETON:

Q. Let me direct your attention now to the second sentence beginning with the letters capital S, capital G, which reads, "SG did all of the talking. He wanted his," and then follows a shorthand phrase.

Does that phrase mean anything to you?

A. No, sir. When we went over this, we went over it verbatim, and Elizabeth would read it back to me and she'd [240] say, "Is that exactly what happened," and I would say, "Yes."

Q. You did read it, then?

A. Yes, I did read it.

Q. Do you recall having seen that shorthand phrase in there at the time you read it?

A. No, sir, I don't.

Q. Did you take any notes of your own at that time?

A. No, sir.

Q. So the only notes that were made were those of Ms. Price; is that correct?

A. That's correct.

MR. MIDDLETON: I pass the witness, Your Honor.

MR. MORSE: Nothing further.

JUDGE BENNETT: You are excused.

MR. MIDDLETON: Excuse me, Your Honor. I am sorry. There are a couple of other questions. May I please go through them very briefly?

JUDGE BENNETT: Go ahead.

BY MR. MIDDLETON:

Q. Mr. Crocker, how long have you been employed at the *Curtis* Matheson Scientific, Inc. firm?

MR. MORSE: Pardon me. Your Honor, I am going to object to the mispronounciation of my client's name. It is Curtin Matheson Scientific.

MR. MIDDLETON: My apologies. It wasn't intentional.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

CHARGE AGAINST EMPLOYER

INSTRUCTIONS: File an original and 4 copies of this charge with NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.

DO NOT WRITE IN THIS SPACE

Case No. 23-CA-7620

Date Filed July 30, 1979

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer: CURTIN MATHESON SCIENTIFIC, INC.

b. Number of Workers Employed: 23

c. Address of Establishment (Street and number, city, State, and ZIP code): P.O. Box 1546
4220 Jefferson Avenue, Houston, TX 77001

d. Employer Representative to Contact: Ms. Elizabeth Price

e. Phone No.: 923 1661

f. Type of Establishment (Factory, mine, wholesaler, etc.): wholesaler

g. Identify Principal Product or Service: Chemical products & supplies

h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (5) (List subsections) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)

Since on or about July 15, 1979, and at all times thereafter, Curtin Matheson Scientific, Inc., by its officers, agents, and representatives, has refused to bargain collectively with General Drivers, Warehousemen and Helpers Local Union No. 968, a labor organization chosen by a majority of its employees in an appropriate unit, for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment and other terms and conditions of employment, by failing to reduce a negotiated collective bargaining agreement to writing and executing the same and by failing to supply said labor organization with certain requested data, necessary and relevant to its performance as bargaining agent.

By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.

3. Full Name of Party Filing Charge (If labor organization, give full name, including local name and number)
General Drivers, Warehousemen and Helpers Local Union No. 968

4a. Address (Street and number, city, State, and ZIP code): 3100 Katy Freeway, Houston, Texas 77007

4b. Telephone: 8697133

5. Full Name of National or International Labor Organization of Which It Is an Affiliate or Constituent Unit (To be filled in when charge is filed by a labor organization) International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America

6. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By _____ Business Representative
(Signature of representative or person filing charge) (Title, if any)
HOWARD REED

Address 3100 Katy Freeway, Houston, TX 77002 869 7133 7/30/79
(Telephone number) (Date)

WILFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

APPENDIX 'A'

APPENDIX 'B'

112

713/226-4271

July 30, 1979

Curtin Matheson Scientific, Inc.
Attn: Ms. Elizabeth Price
P.O. Box 1546
4220 Jefferson Avenue
Houston, Texas 77001

Re: Curtin Matheson Scientific, Inc.
Case No. 23-CA-7620

113

Gentlemen:

A charge has been filed with this office alleging that you have engaged and are engaging in unfair labor practices within the meaning of the National Labor Relations Act, as amended. A copy of the charge is herewith served upon you. Also enclosed is a copy of Form NLRB-4541, pertaining to our investigative and voluntary adjustment procedures.

Attention is called to your right, and the right of any party, to be represented by counsel or other representative in any proceeding before the National Labor Relations Board and the Courts. In the event you choose to have a representative appear on your behalf, please have your representative complete "Notice of Appearance" Form NLRB-4701 and forward it promptly to this office. Also enclosed is Form NLRB-4813, which you may file should you wish to designate a representative as your agent to receive exclusive service of all documents and written communications relating to this proceeding. Please note that this form must be signed by the party and not by an attorney or other representative designated to represent you in this proceeding (see the second paragraph of the enclosed Notice to Parties, Form NLRB-4541).

You are requested to submit promptly a complete written account of the facts and a statement of your position in respect to the allegations set forth in the charge. All communications and submissions should be made to the Board Agent indicated below.

Your cooperation with this office is invited so that all facts of the case may be considered.

Very truly yours,

Enclosures 205004
REGISTERED MAIL
RETURN RECEIPT REQUESTED

Arthur Safos
Acting Regional Director

Case assigned to:	Agent's Telephone Number
Bernard Middleton, Attorney	713/226-4287

cc: Andrews, Kurth, Campbell & Jones, 2500 Exxon Bldg., Houston, Texas 77002
General Drivers, Warehousemen and Helpers Local Union No. 968, Attn: Howard Reed, Bus. Repr., 3100 Katy Frwy., Houston, Texas 77007
Eric H. Nelson, Attorney, 620 One Allen Center, 500 Dallas, Houston, Tx. 77002

I certify that I served the above referred to charge this day by postpaid registered mail on the addressee named above, together with a transmittal letter of which this is a true copy.

Patricia K. Johnson

Subscribed and sworn to before me this 30th day of July 1979

Jean Tancalf

APPENDIX 'B'

APPENDIX C

UNITED STATES OF AMERICA
BEFORE
THE NATIONAL LABOR RELATIONS BOARD
REGION TWENTY-THREE

CURTIN MATHESON SCIENTIFIC, INC.

and Case 23-CA-7620

GENERAL DRIVERS, WAREHOUSEMEN & HELPERS, LOCAL 968, AFFILIATED WITH INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA

COMPLAINT

It having been charged by General Drivers, Warehousemen & Helpers, Local 968, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, herein called the Union, that Curtin Matheson Scientific, Inc., herein called Respondent, has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C., Sec. 151, *et seq.*, herein called the Act, the General Counsel of the National Labor Relations Board, herein called the Board, on behalf of the Board, by the Regional Director for Region Twenty-three, pursuant to Section 10(b) of the Act, and Section 102.15 of the Board's Rules and Regulations, Series 8, as amended, hereby issues this Complaint and alleges as follows:

1.

The charge herein, filed by the Union, was duly served upon Respondent by registered mail on July 30, 1979.

2.

Respondent is a Delaware corporation, with its principal office and place of business located in Houston, Texas, where it is engaged in the business of buying and selling of laboratory instruments and supplies.

3.

During the past twelve months, a representative period, Respondent, in the course and conduct of its business operations, purchased and received goods and materials valued in excess of $50,000, which goods and materials were shipped to Respondent's facilities in Texas directly from points outside the State of Texas.

4.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

5.

The Union is now, and has been at all times material herein, a labor organization within the meaning of Section 2(5) of the Act.

6.

At all times material herein, the following-named person occupied the position set opposite her name and has been, and is now, a supervisor of Respondent, within the meaning of Section 2(11) of the Act, and an agent of Respondent, acting on its behalf, within the meaning of Section 2(13) of the Act:

Elizabeth Price – Director of Personnel

7.

At all times material herein, the following-named person occupied the position set opposite his name and has been, and is now, an agent of the Union, acting on its behalf, within the meaning of Section 2(13) of the Act:

Howard Reed—Business Representative

8.

The following employees of Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All production and maintenance employees, including truck drivers and city sales employed at 4220 Jefferson, Houston, Texas, excluding all other employees including office clerical employees, service repairmen, telephone sales, outside salesmen, guards, watchmen, laboratory personnel, and supervisors as defined in the Act.

9.

On April 15, 1970, the Union was certified as the exclusive collective bargaining representative of the employees in the unit described above in paragraph 8.

10.

At all times since April 15, 1970, the Union, by virtue of Section 9(a) of the Act, has been, and is, the exclusive representative of the employees in the unit described above in paragraph 8 for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment and other terms and conditions of employment.

11.

On or about May 2, 1979, the Union and Respondent commenced negotiations for a new collective bargaining agreement.

12.

On or about May 25, 1979, Respondent made its last and best offer to the Union.

13.

On or about July 16, 1979, the Union notified Respondent that the unit employees had voted to accept Respondent's last and best offer of May 25, 1979, which constituted a full and complete agreement with respect to terms and conditions of employment of the employees in the unit described above in paragraph 8 to be incorporated in a collective bargaining agreement between the Union and Respondent.

14.

Since on or about July 19, 1979, the Union has requested Respondent to execute a written contract embodying the agreement described above in paragraph 13.

15.

Since on or about July 20, 1979, Respondent, by telegram from its Director of Personnel to the Union, has failed and refused to execute a written contract embodying the agreement described above in paragraph 13.

16.

On or about July 20, 1979, Respondent, by telegram from its Director of Personnel, withdrew its recognition of

the Union as the exclusive collective bargaining representative of its employees in the unit described above in paragraph 8.

17.

Since on or about July 20, 1979, the Union, by letter of its Business Representative Howard Reed, has requested Respondent to furnish the following information:

1. The total number of bargaining unit employees currently on its payroll.
2. The job classification of each bargaining unit employee currently on its payroll.
3. The seniority date of each bargaining unit employee currently on its payroll.

18.

The information requested by the Union as described above in paragraph 17 is necessary for, and relevant to, the Union's performance of its function as the exclusive collective bargaining representative of the employees in the unit described above in paragraph 8.

19.

Since on or about July 20, 1979, Respondent has failed and refused to furnish the Union the information requested by it, as described above in paragraphs 17 and 18.

20.

By the acts and conduct described above in paragraphs 15, 16 and 19, and by each of said acts, Respondent has failed and refused, and is failing and refusing, to bargain collectively with the representative of its employees, and Respondent thereby has engaged in, and is engaging in,

unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Section 102.20 and 102.21 of the Board's Rules and Regulations, Series 8, as amended, Respondent shall file with the Regional Director, acting in this matter as agent of the National Labor Relations Board, an original and four (4) copies of an Answer to said Complaint within ten (10) days from the service thereof and that, unless it does so, all of the allegations in the Complaint shall be deemed to be admitted to be true, and may be so found by the Board. Immediately upon the filing of its Answer, Respondent shall serve a copy thereof on each of the other parties.

Dated at Houston, Texas, this 7th day of September, 1979.

/s/ Louis V. Baldovin, Jr.

LOUIS V. BALDOVIN, JR., Regional Director
National Labor Relations Board
Region Twenty-three
One Allen Center, Suite 920
500 Dallas Avenue
Houston, Texas 77002

APPENDIX D

UNITED STATES OF AMERICA
BEFORE
THE NATIONAL LABOR RELATIONS BOARD

CURTIN MATHESON SCIENTIFIC, INC.

and Case 23-CA-7620

GENERAL DRIVERS, WAREHOUSEMEN & HELPERS, LOCAL 968, AFFILIATED WITH INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA

AFFIDAVIT OF SERVICE OF COMPLAINT

DATE OF MAILING September 7, 1979

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid registered mail upon the following persons, addressed to them at the following addresses:

James V. Carroll, III, Esq.
Andrews, Kurth, Campbell & Jones
2500 Exxon Building
Houston, Texas 77002
REGISTERED NO. 205133

Eric H. Nelson, Esq.
One Allen Center, Suite 620
500 Dallas Avenue
Houston, Texas 77002
REGISTERED NO. 205134

REGULAR MAIL

Curtin Matheson Scientific, Inc.
Attention: Elizabeth Price, Director of Personnel
4220 Jefferson Avenue
Houston, Texas 77001

General Drivers, Warehousemen & Helpers, Local 968, Affiliated With International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America
Attention: Howard Reed, Business Representative
3100 Katy Freeway
Houston, Texas 77002

/s/ Patsy C. Gray

Subscribed and sworn to before me
this 7th day of September, 1979
/s/ Fran Tansall

Designated Agent.
NATIONAL LABOR RELATIONS BOARD

APPENDIX E

UNITED STATES OF AMERICA
BEFORE
THE NATIONAL LABOR RELATIONS BOARD
REGION TWENTY-THREE

CURTIN MATHESON SCIENTIFIC, INC.

and Case No. 23-CA-7620

GENERAL DRIVERS, WAREHOUSEMEN & HELPERS, LOCAL 968, AFFILIATED WITH INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA

ANSWER

In response to the allegations contained in the Complaint filed upon Curtin Matheson Scientific, Inc. ("Curtin Matheson") herein, Curtin Matheson would respectfully respond as follows:

I.

The allegations contained in paragraphs 1, 2, 3, 7, 9, 11, 17 and 19 are admitted.

II.

The allegations contained in paragraphs 4, 5, 8, 10, 14, 18, and 20 are denied.

III.

The allegations contained in paragraph 6 are admitted, except that the title of Elizabeth Price recently changed from "Director of Personnel" to "Director of Employee Relations."

IV.

Regarding the allegations contained in paragraph 12, Curtin Matheson admits that on or about May 25, 1979, it made its last offer to the union. However, Curtin Matheson can only speculate as to the basis upon which its last offer might be characterized as "best," because such a characterization would depend on the relative valued [*sic*] placed on the different language and economic proposals that were contained in Curtin Matheson's various offers. Accordingly, Curtin Matheson does not have sufficient information upon which to respond to such allegation.

V.

Regarding the allegation contained in paragraph 13, Curtin Matheson admits that on or about July 16, 1979, the union sent a telegram to Curtin Matheson that purported to accept Curtin Matheson's May 25, 1979 offer. The language of the telegram differs from the characterization of the telegram contained in paragraph 13, and the telegram itself is the best evidence of its content. Therefore, except as admitted above, Curtin Matheson denies the allegations contained in paragraph 13.

VI.

Regarding the allegations contained in paragraph 15, Curtin Matheson admits that on or about July 20, 1979, Curtin Matheson notified the union that its offer of May 25, 1979 was not available for acceptance by the union, in terms and for the reasons set forth in the written communication, which is the best evidence of its contents. Except as admitted herein, Curtin Matheson denies the allegations contained in paragraph 15.

VII.

Regarding the allegations contained in paragraph 16, Curtin Matheson admits that on or about July 20, 1979, it notified the union that it declined to recognize and/or bargain with the union, in terms and for the reasons set forth in the written communication, which is the best evidence of its content. Except as admitted herein, Curtin Matheson denies the allegations contained in paragraph 16.

VIII.

Regarding the allegations contained in paragraph 19, Curtin Matheson admits that following its receipt of the letter referred to in paragraph 17, Curtin Matheson failed and refused to furnish the union with the information requested therein. Except as admitted herein, Curtin Matheson denies the allegations contained in paragraph 19.

WHEREFORE, PREMISES CONSIDERED, Curtin Matheson Scientific, Inc. prays that the National Labor Relations Board's Complaint be dismissed and held for naught.

Respectfully submitted,

/s/ James V. Carroll, III

JAMES V. CARROLL, III
2500 Exxon Building
Houston, Texas 77002
(713) 652-2522

ATTORNEY FOR CURTIN MATHESON SCIENTIFIC, INC.

OF COUNSEL:
Andrews, Kurth, Campbell & Jones

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the foregoing Answer of Curtin Matheson Scientific, Inc. was served upon Local 968 by the mailing thereof, certified mail, return receipt requested, on the 18th day of September, 1979.

/s/ James V. Carroll, III

JAMES V. CARROLL, III

APPENDIX F

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

CURTIN [*sic*] SCIENTIFIC COMPANY, EMPLOYER

and Case No. 23-EC-3404

GENERAL DRIVERS, WAREHOUSEMEN & HELPERS, LOCAL NO. 968, A/W INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, PETITIONER

TYPE OF ELECTION – Stipulation

CERTIFICATION OF REPRESENTATIVE

An election having been conducted in the above matter under the supervision of the Regional Director of the National Labor Relations Board in accordance with the Rules and Regulations of the Board; and it appearing from the Tally of Ballots that a collective bargaining representative has been selected; and no objections having been filed to the Tally of Ballots furnished to the parties, or to the conduct of the election, within the time provided therefor;

Pursuant to authority vested in the undersigned by the National Labor Relations Board, IT IS HEREBY CERTIFIED that GENERAL DRIVERS, WAREHOUSEMEN AND HELPERS LOCAL NO. 968, a/w INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA has been designated and selected by a majority of the employees of the above-named Employer, in

the unit described below, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9(a) of the Act as amended, the said organization is the exclusive representative of all the employees in such unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

UNIT: INCLUDED: All production and maintenance employees, including truck drivers and city sales employed at 4220 Jefferson, Houston, Texas.

EXCLUDED: All other employees including office clerical employees, service repairmen, telephone sales, outside salesmen, guards, watchman, laboratory personnel, and supervisors as defined in the Act.

Signed at Houston, Texas
On the 15th day of April, 1970.

[SEAL]

On behalf of
NATIONAL LABOR RELATIONS BOARD

/s/ Clifford W. Potter
Regional Director, Region 23
National Labor Relations Board

APPENDIX G

WESTERN UNION MAILGRAM

4-012598E197002 07/16/79 ICS IPMBNGZ CSP HOUB
1 7138697133 MGM TDBN HOUSTON TX 07-16
1001A EST

HOUSTON TEAMSTERS LOCAL 968 DK
3100 KATY FRWY
HOUSTON TX 77007

This Mailgram is a confirmation copy of the following message:

7138697133 TDBN Houston TX 60 07-16 1001A EST
PMS Elizabeth Price, Personnel Manager

Curtain [*sic*] -Matheson Scientific, DLR, Report delivery by Mailgram, DLR
4220 Jefferson Ave
Houston TX 77001

Dear Ms Price, This is to advise you that the employees at Curtain [*sic*] -Matheson Scientific in the appropriate bargaining unit represented by the Teamsters Local Union 968 have accepted the company's last offer of May 25 1979 regarding a collective bargaining agreement. Please advise as to a time and place to meet with you to discuss this matter.

Sincerely

Howard Reed, Business Representative
Teamsters Local Union 968 (3100 Katy Frwy Houston TX 77007)

10:01 EST

MGMCOMP MGM

APPENDIX H

WESTERN UNION MAILGRAM

4-044148S200002 07/19/79 ICS IPMBNGZ CSP HOUB
1 7138697133 MGM TDBN HOUSTON TX 07-19
0300P EST

HOWARD REED BUSINESS REPRESENTATIVE
TEAMSTERS LOCAL 968
3100 KATY FREEWAY
HOUSTON TX 77007

This Mailgram is a confirmation copy of the following message:

7138697133 TDBN Houston TX 18 07-19 0300P EST
PMS Elizabeth Price, Personnel Manager Curtin Matheson Scientific RPT DLY MGM, DLR
4220 Jefferson Ave
Houston TX 77001

Dear Ms Price, Please advise us as to your availability so that we may execute the agreement. Sincerely,

Howard Reed, Business Representative
Teamsters Local Union 968
3100 Katy Freeway
Houston TX 77007)

15:02 EST

MGMCOMP MGM

APPENDIX I

WESTERN UNION MAILGRAM

4-044125S201002 07/20/79 ICS IPMBNGZ CSP HOUB
2 7139231661 MGM TDBN HOUSTON TX 07-20
0235P EST

HOWARD REED TEAMSTERS LOCAL 968
3100 KATY FREEWAY
HOUSTON TX 77007

This is a confirmation copy of a previously phone-delivered telegram

This is in response to your telex dated July 16 1979 in which you stated your intent to accept our proposal of May 25 1979. First our offer of May 25 1979, which was rejected by Local 968 on behalf of our warehouse employees, is not now available for you to accept. Moreover, please be advised that Curtin Matheson Scientific Incorporated doubts that Local 968 has the support of a majority of its current warehouse employees and we, therefore, decline to recognize and/or bargain with you or the representatives of those employees.

In the event that you believe that you have the support of a majority of our employees, we invite you to file a petition for an election with the N L R B.

Elizabeth Price, Director, Personnel Curtin Matheson Scientific Inc

14:36 EST

MGMCOMP MGM

APPENDIX J

ANDREWS, KURTH, CAMPBELL & JONES
ATTORNEYS
2500 EXXON BUILDING
HOUSTON, TEXAS 77002
(713) 652-2500

August 22, 1979

Mr. Bernard Middleton, Attorney
National Labor Relations Board
One Allen Center, Suite 920
500 Dallas Avenue
Houston, Texas 77002

Re: Curtin Matheson Scientific, Inc.
Case No. 23-CA-7620

Dear Mr. Middleton:

As you requested, this letter is to inform you of the legal basis for the Company's position in response to the above referenced charge.

On or about June 13, 1979, in the midst of contract negotiations, Local Union No. 968 of the Teamsters went on strike against the Company and picketed its premises continuously thereafter. The Company chose to continue to operate, and commencing on June 25, 1979, hired permanent replacements for the strikers. On July 20, 1979, the Company notified the Union by telegram that it declined to recognize the Union as the representative of the majority of the employees and/or bargain with it. As of that date, there were more replacements and old employees who had openly repudiated the Union on the Company's payroll than there were old employees who had not repudiated the Union. Essential to the Company's refusal is the presumption that the replacements do not support the Union.

The Company maintains that in view of these facts, the Union no longer enjoys the presumption of continued majority support. A recent case decided by the Fifth Circuit, *NLRB v. Randle-Eastern Ambulance Service, Inc.*, 584 F.2d 720, 99 LLRM 337 (5th Cir. 1978) upholds the employer's refusal to recognize a union under similar circumstances. In that case, the employer had also hired a substantial number of permanent replacements and about 20% of the strikers had resigned from the Company. In such a context, the Court rejects the presumption that new employees "support the Union in the same ratio as those they have replaced," stating:

> This presumption is usually applied when the employer has experienced high turnover and is trying to escape his bargaining obligation by citing that turnover as his 'objective evidence.' See *J. Ray McDermott & Co., supra,* at 859; *NLRB v. Washington Manor, Inc.*, 6 Cir., 1975, 519 F.2d 750, 753, 89 LRRM 3044. In our view, however, the presumption does not apply where the 'turnover' results from replacement of strikers. See R. Gorman, Labor Law 112 (1976): "[I]f a new hire agrees to serve as a replacement for a striker (in union parlance, a strike breaker, or worse), it is generally assumed that he does not support the union and that he ought not to be counted toward a union majority."

The Eighth Circuit has also rendered an opinion along the same lines, declining to uphold the Board's finding of an unfair labor practice when an employer refused to bargain with a union. *National Car Rental System v. NLRB,* __ F.2d __, 100 LRRM 2824 (8th Cir. 1979). There, the company had replaced all ten of its striking employees. The Court characterizes the application of the presumption of continued majority support as "wholly unwarranted and unrealistic" under these circumstances, using similar language as the Fifth Circuit. The Court further states:

> If this presumption were to be employed here, we would reach the ridiculous result of presuming that all of the ten new employees favored representation by the union even though they had crossed the union's picket lines to apply for work and to report to work each day after they were hired. This presumption of the Board is not specifically authorized by statute and is so far from reality in this particular case that it does not deserve further comment.

If I can be of further assistance to you on this matter, please let me know.

Very truly yours,

/s/ James V. Carroll, III

JAMES V. CARROLL, III

094:va

UNITED STATES OF AMERICA
BEFORE
THE NATIONAL LABOR RELATIONS BOARD
REGION TWENTY-THREE

CURTIN MATHESON SCIENTIFIC, INC.

and Case No. 23-CA-7620

GENERAL DRIVERS, WAREHOUSEMEN & HELPERS, LOCAL 968, AFFILIATED WITH INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA

AFFIDAVIT IN OPPOSITION TO GENERAL COUNSEL'S MOTION FOR SUMMARY JUDGMENT AND IN SUPPORT OF THE COMPANY'S MOTION FOR SUMMARY JUDGMENT

STATE OF TEXAS)
) ss:
COUNTY OF HARRIS)

Elizabeth Price, being duly sworn, deposes and says:

1. I am Director, Employee Relations for Curtin Matheson Scientific, Inc., the above-named charged party, and was the Director, Employee Relations thereof at all times mentioned herein. I have personal knowledge of the matters herein referred to, and make this affidavit in opposition to the Acting General Counsel's Motion for Summary Judgment and in support of the Company's Motion for Summary Judgment.

2. The latest contract between Curtin Matheson Scientific, Inc. and Local Union No. 968 expired on May 21, 1979. Negotiations began on May 8, 1979, but no agreement was reached, and the final negotiating session was held on June 12, 1979. At that meeting, Howard Reed, Business Representative for Local 968, rejected each proposal of the company's latest offer, article by article. On

June 25, 1979, the Company hired replacements for the strikers. Prior to Local 968's telex of July 16, 1979, in which it attempted to accept CMS's proposals of May 25, 1979, CMS had a good faith doubt of the Union's majority support. This doubt was based on:

a. The bargaining unit consisted of 26 employees prior to the strike;

b. Twenty-nine (29) permanent replacements who had to cross a hostile picket line were hired on June 25, 1979;

c. The shop steward and Union negotiating committee member, Shady Goodson, had told me that the Union was useless and that the employees were paying their dues for nothing. He also stated that the employees did not support the Union strike and that the issues the Union was striking over were of no interest to the employees;

d. Former steward, J. R. Blackshire, told me that everyone was sick of the Union and that the employees had no use for the Union. He said that this was the way all the employees felt;

e. A number of employees told me that the Union was not doing anything for them;

f. Clint Waller resigned from the Union and told me that he did not ever want to have anything to do with the Union again;

g. The Union had difficulty manning the picket line;

h. Five of the 26 old employees were crossing the picket line to come to work;

i. One striker had retired.

j. The Union made no attempt to communicate with the company from June 12 until July 16, 1979.

/s/ Elizabeth Price
ELIZABETH PRICE

Subscribed and sworn to before me this 14 day of December, 1979.

/s/ Joanne M. Potter
Notary Public in and for
HARRIS COUNTY, TEXAS

CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing Respondent's Opposition to General Counsel's Motion for Summary Judgment and Cross-Motion for Summary Judgment, along with supporting affidavit, has been mailed, certified, return receipt requested, to Bernard J. Middleton, Counsel for the Acting General Counsel, National Labor Relations Board, Region 23, One Allen Center, Suite 920, 500 Dallas Avenue, Houston, Texas 77002, and to Eric H. Nelson, Attorney for Teamsters Local 968, One Allen Center, Suite 620, 500 Dallas Avenue, Houston, Texas 77002, on this 18th day of December, 1979.

DONALD J. HORTON

GC Ex. 1(i)

UNITED STATES OF AMERICA
BEFORE
THE NATIONAL LABOR RELATIONS BOARD
Houston, Texas

CURTIN MATHESON SCIENTIFIC, INC.

and Case 23-CA-7620

GENERAL DRIVERS, WAREHOUSEMEN & HELPERS, LOCAL 968, AFFILIATED WITH INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA

ORDER DENYING MOTIONS

On September 7, 1979, the Regional Director for Region 23 of the National Labor Relations Board issued a Complaint and Notice of Hearing in the above-entitled proceeding, alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Subsequently, on September 18, 1979, Respondent filed an answer, admitting in part and denying in part the allegations of the complaint, alleging affirmative defenses, and requesting that the complaint be dismissed in its entirety.

On November 27, 1979, Counsel for the General Counsel filed with the Board in Washington, D.C., a Motion for Summary Judgment. Subsequently, on December 4, 1979, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. On December 18, 1979, the Respondent

filed an Opposition to General Counsel's Motion for Summary Judgment and Cross-Motion for Summary Judgment and dismissal of Complaint and an Affidavit in Opposition to General Counsel's Motion for Summary Judgment and in Support of the Respondent's Motion for Summary Judgment.

Pursuant to the provisions of section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board, having duly considered the matter, is of the opinion that the complaint, answer, Motion for Summary Judgment, the opposition and Cross Motion for Summary Judgment, including memorandum and affidavit submitted therewith raise substantial and material issues which may better be resolved after a hearing conducted before an Administrative Law Judge. Accordingly,

IT IS HEREBY ORDERED that the General Counsel's Motion for Summary Judgment be, and it hereby is, denied.

IT IS HEREBY ORDERED that Respondent's Cross Motion for Summary Judgment and Motion to Dismiss the complaint be, and it hereby is, denied.

IT IS FURTHER ORDERED that this proceeding be, and it hereby is, remanded to the Regional Director for Region 23 for the purpose of arranging a hearing before an Administrative Law Judge, and that the said Regional Director be, and he hereby is, authorized to issue a notice thereof.

Dated, Washington, D.C., March 12, 1980.

John H. Fanning, Chairman

Howard Jenkins, Jr., Member

John A. Penello, Member

NATIONAL LABOR RELATIONS BOARD

(SEAL)

GC Ex 12

TEAMSTERS, GENERAL DRIVERS, WAREHOUSEMEN AND HELPERS LOCAL UNION NO. 968
3100 KATY FREEWAY, HOUSTON, TEXAS 77007
PHONE (713) 869-7133

June 28, 1979

Ms. Elizabeth Price
Director – Personnel
Curtain [*sic*] Matheson Scientific, Inc.
4220 Jefferson Ave.
P. O. Box 1546
Houston, Texas 77001

Dear Ms. Price:

This will acknowledge receipt of your letter dated June 8, 1979 and postmarked June 25, 1979 (seventeen (17) days later), and received by us on June 26, 1979, wherein you state that, "I am disappointed with your statement that you will not make known to us the basis upon which you feel the impasse could be resolved".

As you are aware, this statement has never been made by me or anyone else involved in the negotiation from the Union side of the table.

The facts are, and continue to be, that the Union throughout the entire negotiation, in every meeting held with you and your committee, consistently pointed out the areas that we felt would make your proposal unacceptable to the people, but the Company was not persuaded to make any movement. In fact, the only progress made in the negotiations was where the Union either withdrew it's [*sic*] proposal, or took the Company's proposal and reworked it or accepted it in it's [*sic*] entirety.

Your position has been that most of the items in your proposal are firm and that you cannot or will not move. This is what has caused the impasse and created the situation that now exists.

When you are willing to negotiate and bargain in good faith, I am sure the log jam can be broken, and we can reach an agreement that will be acceptable to all parties involved.

Sincerely,

/s/ Howard Reed
HOWARD REED
Business Representative
Teamsters Local Union 968

HR/mh

CERTIFIED MAIL # 938123
RETURN RECEIPT REQUESTED

Curtin Matheson Scientific, Inc.
GENERAL OFFICES: 4220 JEFFERSON AVE. P. O. BOX 1546 HOUSTON, TEXAS 77001 PHONE: 713-923-1661

143

The Houston Branch and International Division have hired permanent replacements for those employees who are on strike. All positions have been filled, however, employees who make an unconditional request for reinstatement will be notified when openings occur for which they are qualified. Please keep us informed of your current address and continued interest in reinstatement.

R. K. Blalock 6-22-79
Employee's Signature Date

Elizabeth Price 6-22-79
Company's Representative Date

NATIONAL LABOR RELATIONS BOARD
Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-6(a)
Disposition — Identified ✓
Received ✓
Rejected
In the matter of Curtin Matheson
Date 6-10-80 Witness Price Reporter ga
No. Pages 1

Respondent 6 a

June 27, 1979
Memorandum of Conversation

Elizabeth Price

144

On June 27, 1979, J. R. Blackshire, a striking warehouseman came in to talk with Tim Martin and myself about reinstatement to his position with CMS. He signed the form we had prepared indicating that he was requesting unconditional reinstatement. J. R. told us that he came back after vacation and absolutely was appologetic about the strike in not knowing what was going on because he was on vacation. He indicated that he holds nothing against the Company and that the whole situation was too bad. He returned the key to the cage at that time. J. R. indicated to Tim and I that he refused to walk the picket line after awhile because he was totally dissatisfied with the Union. Then he got another job and didn't want to walk it any more anyway. He came back and asked for his job back. J. R. was very outspoken against the Union. He expressed considerable animosity about the lack of pay for walking the picket line. He was absolutely appalled that they took out the union dues of $12.00 when they handed him his money for one week of walking the picket line. He never received any more strike money after that. He was also upset that he had to go to the Union Hall to pick his money up instead of having them bring it to him on the line. J. R. indicated that the Union was really doing nothing for the employees and that he could not support a Union like that. Throughout the conversation J. R. did most of the talking and we did the listening. He obviously wanted to get the whole matter off his mind.

When the meeting broke up with J. R., I started walking out in the warehouse and he was out there talking to some people. He called me over to his side and started talking. I immediately asked Ian Knapp to come over and talk with us so that there would be a witness. J. R. kept telling us that there wasn't a Union any more. He said they had lost all their support from the employees in the unit. He indicated that there were many others who wanted to come back to work and didn't want the Union to represent them any more. They like him, simply didn't want anything to do with that Union and we did little more than stand there and nod our head. The only thing we could tell him was that those individuals who wanted their job back should come in and tell us that and sign one of those little sheets of paper that he did. He then gave us the names of people that we should want back because he thought they were good workers. They were Alvin Steele, Betty Goodson, Pete Doucett, and Raymond Brunner.

J. R. repeated a number of times in the conversation that he had no grudges against anyone in the situation except that he was upset that the Union did not do a better job of representing the people and doing what they wanted with the contract. He repeated again the information he had told Tim and I that he didn't walk on the picket line because he just didn't support the Union. The Union, he said, protected only the bad employees and that those that were good didn't get any help from the Union at all.

There's a note that says "They (five) never had any problem getting through the picket line." A couple lines down there's another note that said "protected the bad employees." The two notes at the very bottom of the page do not mean anything to me at this point.

6b

6-19 10:00 a.m.

Lady Gardens, Rock Price

- He called Fred 2 or 3 times and Fred kept referring him to Jim. Fred never did find out what he wanted
- Finally he called Jim. Asked him [illegible]
- SG didn't come in but called 1-2 days later and then came in today at 10:00
- SG did all the talking. He wanted his $ & $. Howard wanted the strike and not the membership. He said he wasn't happy all the members had said it had not done any good for the employees
- Felt he was paying dues for nothing!
- He was upset about getting no compensation from Howard or any of the employees on picket. He had to do picket roster and people would not support him at U. In middle — e's that did not want strike, U that did.
- Until would not have the problem. Has Brady
- Pete and J.R. want to return to work.
- Personal vendetta of Howard because sees us of no interest to us.
- Wants to come back - 13 yrs CMS - not many like
- He to call us

NATIONAL LABOR RELATIONS BOARD
Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-7
Disposition — Identified ✓ / Received ___ / Rejected ___
In the matter of Custom Mattresses
Date 6-10-80 Witness Price Reporter Ja
No. Pages 1

Respondent 7

Curtin Matheson Scientific, Inc.
GENERAL OFFICES: 4220 JEFFERSON AVE. P. O. BOX 1546 HOUSTON, TEXAS 77001 PHONE: 713-923-1661

The Houston Branch and International Division have hired permanent replacements for those employees who are on strike. All positions have been filled, however, employees who make an unconditional request for reinstatement will be notified when openings occur for which they are qualified. Please keep us informed of your current address and continued interest in reinstatement.

Peter Doucette — 6/28/79
Employee's Signature — Date

Richard Price — 6/28/79
Company's Representative — Date

NATIONAL LABOR RELATIONS BOARD
Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-8(a)
Disposition — Identified ✓ / Received / Rejected
In the matter of Curtin Matheson
Date 6-10-80 Witness Price Reporter Jon
No. Pages 1

Respondent 8a

147

June 28, 1979
Memorandum of Conversation

Elizabeth Price

Tim Martin and I talked with Pete Doucett today regarding his request for reinstatement. Pete said repeatedly that he would rather work than be out on the picket line. He was use to the work at CMS and he liked the people there and the work. He had worked for CMS a long time and wanted to work here again.

NATIONAL LABOR RELATIONS BOARD
Docket No. 22-CA-7620 OFFICIAL EXHIBIT NO. R-8(b)-1
Disposition — Identified ✓
Received ✓
Rejected
In the matter of Curtis Mathewson
Date 6-10-80 Witness Price Reporter Gal
No. Pages 1

8b

C. M. S. 7/10/79

Mr. Jim Martin

Dear Sir:

Due to the lock out and strike. I wish to take early retirement at age 62

would you please send this info on T.D the Draper Person and mail me my benefits My sick and Vacation Pay also my Profit sharing and retirement Pay

Thank
Raymond Brunner

Respondent 9a

149

July 12, 1979
Memorandum of Conversation

Elizabeth Price

Tim Martin and I talked to Raymond Brunner regarding his retirement. He said that he came to the decision to retire because he didn't want to work with the union people again. He wanted out. His wife was working and he just didn't want to mess with the union. He thought the union protected the wrong employees and that they hadn't negotiated very good. He thought the strike was totally unnecessary and all the union's fault.

NATIONAL LABOR RELATIONS BOARD
Docket No. 25-CA-7620 OFFICIAL EXHIBIT NO. R-9(b)
Disposition — Identified ✓
Received ✓
Rejected
In the matter of Custom Maid
Date 6-10-80 Witness [illegible] Reporter [illegible]
No. Pages 1

9b

PERSONNEL

JUL 23 1979

Clint Waller
10614 Burkmell
Houston Texas 77016
July 19, 1979
(631-3095)

150

Curtin Matheson Scientific, Inc.
Director, Personnel
Mrs. Elizabeth Price
4220 Jefferson
Houston Texas

Dear Mrs. Price,

Enclosed is a copy of the letter of my resignation to the Teamster Union, Local 968, I have sent to Mr. Howard Reed. I have also sent a copy of this letter of my resignation of the Teamster Union, Local 968 to Mr. Jim Cooke - Operation Manager of the International Branch and a copy also to the Texas Employment Commission stating that I am no longer a member and will be a member.

I will like to return back to work at Curtin Matheson Scientific, Inc. if I haven't been terminated by the company, if I haven't been terminated, I will like to know how long I will have to wait to return back to work. Please let me my correct mailing address and home phone number.

Sincerely yours, Respondent
Clint Waller 10a

151

Clint Fuller
10614 Lowknoll
Houston, Texas 77016
July 19, 1979

Houston Teamster Union
Local 968
c/o Wm. Howard Peek
3100 Katy Freeway
Houston, Texas 77007

Dear Wm. Howard Peek,

This is a letter of my resignation as a member of the Teamster Union, local 968 out at Curtis Mathes Electronic Inc., 4220 Jefferson, Houston, Texas 77023.

I wish not to be a member of the Teamsters no longer at Curtis Mathes Electronic Inc. or anywhere else. That is why I haven't been out for the last three or four weeks.

I am now seeking employment either back at Curtis or else where through local different agency.

Yours Truly,
Clint Fuller

10b

p. 111

Curtin Matheson Scientific, Inc.
GENERAL OFFICES: 4220 JEFFERSON AVE. P. O. BOX 1546 HOUSTON, TEXAS 77001 PHONE: 713-523-1661

152

July 26, 1979

Ms. Anna Jimenez
6605 Avenue N
Houston, Texas 77011

Dear Anna:

We understand through some of our employees, that you have obtained a position with the U. S. Post Office. If this is the case and you wish to resign from CMS, we would like to get our records straight by receiving your written resignation. As soon as we have the resignation, we will determine what monies are due you for vacation pay, profit sharing, etc., and mail them to you.

If you need any information or have questions, please do not hesitate to contact me.

Sincerely,

Elizabeth Price

Elizabeth Price
Director - Personnel

EP/jc

NATIONAL LABOR RELATIONS BOARD
Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-11 (a)
Disposition — Identified ✓ Received ✓ Rejected
In the matter of Curtin Matheson
Date 6-10-80 Witness Price Reporter Jo
No. Pages 1

Respondent 11a

153

July 26, 1979

I, Anna Jimenez, voluntarily resign my employment with Curtin Matheson Scientific, Inc., effective July 26, 1979.

Anna Jimenez

NATIONAL LABOR RELATIONS BOARD
Docket No. 13-CA-7620 OFFICIAL EXHIBIT NO. R-11(b)
Disposition — Identified ✓ / Received ✓ / Rejected
In the matter of Curtin Matheson
Date 6-10-80 Witness Sikes Reporter JC
No. Pages 1

11b

July 19, 1979

I, Shady Goodson, voluntarily resign my employment with Curtin Matheson Scientific, Inc. effective July 19, 1979.

Shady Goodson

NATIONAL LABOR RELATIONS BOARD
Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-12(a)
Disposition — Identified ✓ / Received ___ / Rejected ___
In the matter of Curtin Matheson
Date 6-10-80 Witness Price Reporter JA
No. Pages 1

Respondent 12a

155

July 20, 1979

I, Robbie Madison, voluntarily resign my employment with Curtin Matheson Scientific, Inc., effective July 20, 1979.

Robbie Madison

Robbie Madison

NATIONAL LABOR RELATIONS BOARD
Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-12(b)

Disposition — Identified ✓ / Received ✓ / Rejected

In the matter of Curtin Matheson

Date 6-10-80 Witness Price Reporter ga

No. Pages 1

12b

July 23, 1979

I, Wilfred Green, voluntarily resign my employment with Curtin Matheson Scientific, Inc., effective July 23, 1979.

Wilfred Green

NATIONAL LABOR RELATIONS BOARD
Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-12(c)

Disposition — Identified ✓
Received ✓
Rejected

In the matter of Curtin Matheson
Date 6-10-80 Witness [illegible] Reporter [illegible]
No. Pages 1

12 c

PERSONNEL
JUN 3 1 1979

157

July 24, 1979

I, John Thompson, voluntarily resign my employment with Curtin Matheson Scientific, Inc., effective July 24, 1979.

John E. Thompson
John Thompson

NATIONAL LABOR RELATIONS BOARD
Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-12(d)
Disposition — Identified ✓
Received ✓
Rejected
In the matter of Curtin Matheson
Date 6-10-80 Witness [illegible] Reporter JA
No. Pages 1

12d

July 24, 1979

I, Joanne Stephens, voluntarily resign my employment with Curtin Matheson Scientific, Inc., effective July 24, 1979.

Joanne Stephens

NATIONAL LABOR RELATIONS BOARD
Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-12(a)

Disposition — Identified ✓
Received ✓
Rejected

In the matter of Curtin Matheson
Date 6-[illegible] Witness Price Reporter JA

12 e

159

July 24, 1979

I, Joe Doby, voluntarily resign my employment with Curtin Matheson Scientific, Inc., effective July 24, 1979.

Joe Doby

NATIONAL LABOR RELATIONS BOARD
Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-12 (f)
Disposition — Identified ✓
Received ✓
Rejected
In the matter of Curtin Matheson
Date 6-10-80 Witness [illegible] Reporter [illegible]
No. Pages 1

12f

July 24, 1979

I, J. R. Blackshire, voluntarily resign my employment with Curtin Matheson Scientific, Inc., effective July 24, 1979.

J. R. Blackshire
J. R. Blackshire

NATIONAL LABOR RELATIONS BOARD
Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-12(g)
Disposition — Identified ✓ Received ✓ Rejected
In the matter of Curtin Matheson
Date 6-10-80 Witness Price Reporter Gr
No. Pages 1

12g

161

July 25, 1979

I, Pete Doucette, voluntarily resign my employment with Curtin Matheson Scientific, Inc., effective July 25, 1979.

Pete Doucette

NATIONAL LABOR RELATIONS BOARD

Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-12(h)

Disposition — Identified ✓ Received ✓ Rejected

In the matter of Curtin Matheson

Date 6-10-80 Witness [illegible] Reporter JA

No. Pages 1

12 h

July 26, 1979

I, Anna Jimenez, voluntarily resign my employment with Curtin Matheson Scientific, Inc., effective July 26, 1979.

Anna M. Jimenez

Anna Jimenez

NATIONAL LABOR RELATIONS BOARD
Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-12(i)

Disposition — Identified ✓
Received ✓
Rejected

In the matter of Curtin Matheson
Date 6-10-80 Witness [illegible] Reporter [illegible]
No. Pages 1

12 i

163

August 1, 1979

I, Clint Waller, voluntarily resign my employment with Curtin Matheson Scientific, Inc., effective August 1, 1979.

Clint Waller

NATIONAL LABOR RELATIONS BOARD

Docket No. 33-CA-76,20 OFFICIAL EXHIBIT NO. R-12(j)

Disposition — Identified ✓
Received ✓
Rejected

In the matter of Curtin Matheson

Date 6-10-80 Witness Price Reporter JO

No. Pages 1

12 j

August 8, 1979

I, Pablo Sanchez, voluntarily resign my employment with Curtin Matheson Scientific, Inc., effective August 8, 1979.

Pablo R. Sanchez

Pablo Sanchez

NATIONAL LABOR RELATIONS BOARD

Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-12(K)

Disposition — Identified ✓ Received ✓ Rejected

In the matter of Curtin Matheson

Date 6-10-80 Witness [illegible] Raporter [illegible]

No. Pages 1

12 K

7-19-79

165

Craig Allee - everything is fine now. He think he is catching on real well and likes the work he is doing. No problems. No suggestions. Union thing doesn't exter his mind

Jim Hastman - everything is going okay. The work is easier than the other work he has done. His supvisors don't bother him. He heard a rumor that we were going to lay people off next week so the strikers could come back.

Rafeal Torres - he likes the company and really appreciates us letting him work here. He has been assigned everywhere & has done 100% on all jobs. He's going to work hard and want a lot of pats on the back.

NATIONAL LABOR RELATIONS BOARD
Docket No. 33-CA-7620 OFFICIAL EXHIBIT NO. R-13(a)
Disposition — Identified ✓ Received _____ Rejected _____
In the matter of Custom Distribution
Date 6-10-80 Witness _____ Reporter _____
No. Pages 1

Respondent 13a

7-18-79
10:10

Vera Thomas – absolutely no problems
– always gets questions answered
– drivers are helpful
– everyone treats her nicely
– she's working on a suggestion to redo the local line

David Vaughn – really gets a kick out of what he is doing
– hates missing work
– likes bulk packing best
– hopes to work here a long time

Esrnah Manson – everything is going well
– he will come see me in 3-6 months to ask about another position
– needs to stay in chemicals because it's a little more challenging
– supervisors and office workers are very helpful.
– thinks Lynn is fantastic. Someone (type) he always wanted to know tells him exactly where he stand
– Integration of office and whse is good
– Compared to other places he's work this is the ① best ② most organized

Rhonda White – boxes heavier than she thought
– it's better than she thought but the fans help. 13b
– Dan and she have had a couple "debates" about her work

- Nita irritated her because she didn't know who she was and she kept following her around.
- Blew up at Nita w/ Dan there. Has apologized to Dan
- everything else is OK
- 1/2 hr. lunch is too short
- Too much OT

NATIONAL LABOR RELATIONS BOARD

Docket No. 23-CA-7620 OFFICIAL EXHIBIT NO. R-13(c)

Disposition — Identified ✓
Received ✓
Rejected

In the matter of Custom Mattress

Date 6-10-80 Witness Price Reporter JN

No. Pages 1

13c

Cheryl McDougald - has had very few problems although she is glad she is in receiving and not in the other section where they have had so many problems. She wonders if she is too slow in her work but thinks she is fairly accurate. Supervision is ok. She sees in receiving fight (argue) a lot but she's just going to continue to ignore it and go her way. No complaints or suggestions.

Emily Glover - she's back "in the family" and is going to work hard for the company's succes She speaks up when there is a problem and doesn't hesitate to apply a little peer pressure. She is going to talk to Dan about having to repack all the poorly packed items. She did 16 yesterday and 5 already today. Packers are not initialing so you can't see who did it wrong.

Sandra Hutto - was really concerned about her job when the lockout started but enjoys it now. The pressure is off of her a little. She is disgusted with the poor work done by packers. Was out sick 4 days and never will be again because of all the problems she had now.

Art Reyes - no problems - likes his work doesn't have much to say but will let me know if I can help him in any way.

12d

7-19-79

169

Steve Lyda - likes it here
- thinks he's been treated fairly and enjoys what he is doing.
- he was interested in my comment that he was doing well because he had no idea whether or not his performance was adequate - just needs a pat on the back.

David Schneider - is very impressed with Lloyd's card system for finding merchandise and the overall organization of the whse
- he respects Lloyd and enjoys working for him. David looks forward to the day when he and Steve know enough that they can work harder than Lloyd.
- he commented on the fact that the union obviously didn't support the people. He's worked & sees advantages to both union and non-union. As long as the company treats him good though he can't see any need for a union.

13e

Kathy Stowers - <u>everyone</u> will be leaving as soon as they can afford to because of the petty attitude of mgmt
- harrass them about the small things like her walking to see Rhonda in afternoon even though her work is done
- ½ hr. is way too short considering how far they have to walk. They shouldn't have to punch in or out
- Burgoon is spreading rumors about she and Rhonda being lesbians. Kathy may lose her temper and deck her.
- Kathy volunteered for OT and they don't have her work. In light of all the mandatory OT, she thinks it's dumb
- Only two who are staying are the two others in Sutil.
- It's too hard to get to the bank because they don't get checks until Friday afternoon and only have ½ hour lunch on Mon.

-she thought she should have been paid for her illness when she was in the hospital even though the benefits say 90 days

13 f

Curtin Matheson Scientific, Inc.
GENERAL OFFICES: 4220 JEFFERSON AVE. P. O. BOX 1546 HOUSTON, TEXAS 77001 PHONE: 713-923-1661

The Houston Branch and International Division have hired permanent replacements for those employees who are on strike. All positions have been filled, however, employees who make an unconditional request for reinstatement will be notified when openings occur for which they are qualified. Please keep us informed of your current address and continued interest in reinstatement.

Employee's Signature — 6/28/79 Date

Company's Representative — 6/28/79 Date

NATIONAL LABOR RELATIONS BOARD
Docket No. 25-CA-7620 OFFICIAL EXHIBIT NO. R-14
Disposition — Identified ✓ Received ____ Rejected ____
In the matter of Curtin Matheson
Date 6-10-80 Witness ____ Reporter ____
No. Pages 1

Respondent 14

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Supreme Court of the United States

No. 88-1685

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

CURTIN MATHESON SCIENTIFIC, INC.

ORDER ALLOWING CERTIORARI

Filed June 26, 1989

The petition herein for a writ of certiorari to the United States Court of Appeals for the Fifth Circuit is granted.

June 26, 1989

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